

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL

HYDERABAD BENCH AT HYDERABAD

CA No. 02/621A/HDB/2016

Date of Order: 26.10.2016

In the matter of:

1. Deccan Chronicle Holdings Limited
36, Sarojini Devi Road,
Secunderabad – 500003, Telangana

2. Mr. Tikkavarapu Venkatram Reddy,
Chairman
Plot No. 54, H.No-8-2-703/A-6/C
Road No.12, Banjara Hills
Hyderabad- 500034, Telangana

3. Mr. Tikkavarapu Vinayak Ravi Reddy,
Vice chairman and Managing Director
Plot No. 53, H.No-8-2-703/A-6/C
Road No.12, Banjara Hills
Hyderabad- 500034, Telangana

4. Mr. Karthik Iyer Parasuram,
Vice Chairman
H.No-8-2-283/B/5, Plot No.2
Road No. 3, Banjara Hills
Hyderabad – 500034, Telangana

CERTIFIED TO BE TRUE COPY
OF THE ORIGINAL



..... Applicants

Counsel for the Applicants

..... Mr. Siva. K. Gopinatham ✓

Dhir & Dhir Associates ✓

Advocate

CORAM:

HON'BLE Mr. RAVIKUMAR DURAISAMY, MEMBER (TECH) ✓

HON'BLE Mr. RAJESWARA RAO VITTANALA, MEMBER (JUDL) ✓

ORDER

(As per Ravikumar Duraisamy, Member (Tech))



1. The present application is filed by the Applicants under Section 621A of the Companies Act, 1956 for compounding the offences under Section 297 of the Companies Act, 1956 before the NCLT, Hyderabad Bench, praying the Tribunal to take lenient view in compounding the offences committed under the Companies Act, 1956. ✓
2. The brief facts of the case as averred in the Application are as follows: ✓
 - a. The Applicant Company is a Company which was incorporated on 16th December, 2002 in the name and style of Deccan Chronicle Holdings Limited under the provisions of the Companies Act, 1956 and registered as a Limited Company ✓

with the Registrar of Companies, Hyderabad (RoC) having CIN L22122AP2002PLC040110. ✓

- b. The present Authorised Share Capital of the Company is Rs. 70,00,00,000/- (Rupees Seventy Crore only) divided into 35,00,00,000 Crore (Thirty Five Crore) Equity Shares of Rs. 2/- each out of which Rs. 41,79,44,438/- (Forty One Crores Seventy Nine Lakhs Forty Four Thousand Four Hundred Thirty Eight only) divided into 20,89,72,219 (Twenty Crores Eighty Nine Lakhs Seventy Two Thousand Two Hundred and Nineteen) Equity Shares of Rs.2/- each have been issued and have been fully subscribed and paid up.
- c. The main objects of the Applicant Company are to carry on business of printers and publishers of newspapers, magazines, periodicals, journals, books and pamphlets and other library works in different languages and to carry on all or any of the business of printers, publishers, stationers, lithographers, typefounders, sterotypers, electrotypes, off-set printing, photographic printers, photolithographers, chrome-lithographers, engravers, diesinkers, book binders, card printers, Calendar printers, translators, paper and ink and or other stationery goods, book sellers, advertising agents, Engineers, and dealers in or manufacturers of or importers and exporters of any other article, goods, finished or unfinished or



other things of a character or kind similar or analogous to the forgoing of any of their connected directly or indirectly with them, etc. ✓

- d. As per Section 297 (1) of the Companies Act, 1956, a Company having a Paid-up Share Capital of Rs. 1,00,00,000/- (Rupees One Crore only) or more is required to obtain prior approval from the Central Government for entering into contract/to carry out any transactions with the Director of the Company or his relatives(s) or a firm in which such Director or his relative is a partner or any other partner in such a firm or a private Company of which the Director is a member or Director. ✓
- e. The Applicants submitted that as per Accounting Standards – 18 (AS-18), the actual requirement by the Company is to list out the related parties and disclose the amount involved in the related party transactions without there being any requirement of party wise amount. Further, the Applicant Company believes that AS 18 permits to disclose the amount involved in the contract with the related parties to be given category wise and this was exactly what was done by the Applicant Company. ✓
- f. It was also submitted that the Applicant Company will give party wise details with respect to the related parties in future and undertook to comply with the provisions of Section 297 of the Companies Act, 1956. ✓



- g. The Applicants further submitted that the contravention under Section 297 of the Companies Act, 1956 for obtaining prior approval from the Central Government for the said transactions is due to exigency of the nature of transaction and that the urgency to execute the transaction except the said there is no other intention or otherwise to violate the provisions of the Companies Act, 1956 ✓
- h. Subsequently, a Show Cause Notice RAP/209A/DROC (SRD)/CK/DCHL/Sec297/ 2014/ 1148/14 dated 05.08. 2014 (hereinafter referred as SCN) was issued by the Deputy Registrar of Companies, Hyderabad for the states of Andhra Pradesh and Telangana. Accordingly, the Applicants stated that they have filed the present application suo-motu for compounding of offence under Section 621A of the Companies act, 1956. ✓
- i. It is also submitted that the defaults committed by the Applicants inadvertently and without any malafide intentions on the part of the Applicants and it is not likely to cause any prejudice to either the Applicant Company, or to its members or creditors. It is further submitted by the Applicants that they will take due care in future to ensure that there is no default in compliance with the provisions of the Companies Act, 1956 regarding the matter in question. ✓



3. We have heard the Learned Counsel for the Applicants and also perused the RoC report and other connected case records available in the file. ✓
4. The RoC, while affirming the contentions made in the Application, has stated that “the Applicants have not clearly mentioned in their Petition as to how the offences were made good and that while the Tribunal is considering the compounding application, the Applicants may be put to strict proof of the same.” The RoC has mentioned that the Applicant Company was ordered for inspection under Section 209A of the Companies Act, 1956 by the Ministry of Corporate Affairs, vide Ministry’s letter No.F.No.7/345/2012-C:/II dated 13.09.2012. Further, RoC explained that, while inspecting the books and records of the company, the Inspecting Officers observed that the company entered transactions with M/s Flamingo Enterprises in which 1) Mr. Tikkavarapu Venkatram Reddy, Chairman; 2) Mr. Tikkavarapu Vinayak Ravi Reddy, Vice-Chairman are partners holding 33.33% capital each who are directors of DCHL, therefore, the transaction is deemed interested transaction which requires prior approval of Central Government as required under Section 297(1), which DCHL failed to do so and the DCHL also failed to disclose the transaction in audited Balance Sheet as at 31.03.2013 as required under related party disclosure ✓



under AS-18 of the Institute of Chartered Accountants of India. The matter was taken to the DCHL vide letter dated 17.05.2013 but the reply of the Company was not satisfactory. Therefore, the Inspecting Officer opined that DCHL and its Board of Directors have violated Section 297(1) and are liable for penal action under Section 629A of the Companies Act, 1956.

5. In the show-cause notice dated 05.08.2014, it was stated that when the matter regarding various violations/issues was taken up with the Company vide letter dated 17.05.2013, the Applicant Company wilfully did not reply to the above issue in their reply dated 04.06.2013. Although there was a reply by the Applicant Company on 04.07.2013, it did not seem satisfactory to RoC as they failed to clarify the circumstances under which it took loan from the firm together with documentary evidence and simply replied that there did not exist any contract or any loan with M/s Flamingo Enterprises, a firm in which some of the Directors of Applicant Company are interested and that they have not violated Section 297(1) of the Companies Act, 1956. ✓

6. Though the Applicants have stated that the present Application is filed suo-motu under Section 621A of the Companies Act, 1956 but

it is noted that they have come before this Tribunal only after a show cause notice dated 05.08.2014 was issued by RoC. ✓

7. Though the Applicant Company has stated that it has not made any transaction with M/s Flamingo Enterprises since 06.05.2009, there is no denying the fact that an amount of Rs. 15 lakhs was received by the Applicant Company on 05.03.2009 from Flamingo Enterprises which was later transferred back to M/s Flamingo Enterprises on 06.05.2009 and this transaction is a related party transaction as per the provisions of Section 297 of the Companies Act, 1956. Such a transaction required prior approval of Central Government as per Section 297(1) of the Companies Act, 1956 but the same was not obtained in the present case.

8. We are of the view that prior approval sought to be obtained from the Central Government is inter alia with an object to safeguard the interest of various stakeholders viz shareholders, creditors, suppliers, etc and also to bring in transparency in the corporate dealings with respect to related party transactions. ✓

9. In the present Application, the Applicants have not obtained approval from the Central Government for the related party transactions which is required as per the law. ✓



10. In the light of aforesaid facts, circumstances and discussions of the case and in the interest of justice, the prayer as sought by the applicants is premature and we are not inclined to consider the same at this stage. Therefore, the applicants are directed to approach the Central Government for approval of the related party transaction, which are entered with M/s Flamingo Enterprises, in accordance with section 297(1) of the Companies Act, 1956 and they are at liberty to approach this Tribunal subsequently in accordance with law.



Sd/-

RAVIKUMAR DURAISAMY
MEMBER (TECHNICAL)

Sd/-

RAJESWARA RAO VITTANALA
MEMBER (JUDICIAL)

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OF THE ORIGINAL**

V. Annapoorna
V. ANNA POORNA
Asst. DIRECTOR
NCLT, HYDERABAD - 68