

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL**HYDERABAD BENCH AT HYDERABAD****C.A.NO. 17/HDB/2016****Date of Order**  **08.2016**

Between:

1. K.P.R. Agrochem Limited,
(Represented by Mr. Kovvuri Rajasekhar Reddy, Whole-Time Director)
Regd. Office at D.No.8-256, Tata Nagar,
Balabhadrapuram – 533 343, Andhra Pradesh.

2. Mr. Karri Venkata Mukunda Reddy,
Managing Director,
2-1/1, Ramannapeta,
Komaripalem – 533 346, Andhra Pradesh.

3. Kovvuri Rajasekhar Reddy,
Whole-Time Director,
D.No.2-2/3a, Bhagyanagar,
Biccavolu Mandal, Komaripalem,
East Godavari – 533 346, Andhra Pradesh.

4. Mr. Kovvuri Papa Reddy,
Whole-Time Director,
D.No.3-29, Kacheri Vari Street,
Komaripalem -533 346, Andhra Pradesh.

5. Mr. Narayana Rao Poluri,
Company Secretary, 46-16-29,
MG Park East Road, Danavaipet,
Rajahmundry – 533103, Andhra Pradesh.



6. Aravind Seds Private Limited

(Represented by Mr. Kovvuri Satyanarayana Reddy, Director)

Regd. Office at D.No.8-256, Tata Nagar,

Balabhadrapuram – 533 343

Andhra Pradesh.

7. Sri Sai Swarupa Seeds Private Limited,

(Represented by Mr. Kovvuri Rajasekhar Reddy, Director)

Regd. Office at DNo.8-256, Tata Nagar,

Balabhadrapuram-533 343,

Andhra Pradesh.

8. Sri Lakshmi Poultry Complex Private Limited,

(Represented by Mr. K.Rajasekhar Reddy, Director)

D.No.4-8,

Balabhadrapuram -533 343,

Andhra Pradesh.

9. Papa Reddy Poultries Private Limited,

(Represented by Mr. K.Venkata Mukunda Reddy, Director)

D.No.3-29, Main Road, Komaripalem,

Biccavolu Mandal, East Godavari District -533 346,

Andhra Pradesh.

10. Padmaja Farms,

(Represented by Mr. K.Venkata Mukunda Reddy, Director)

D.No.8-256, Tata Nagar,

Balabhadrapuram -533 343,

Andhra Pradesh.

hru

11. KPR Agro Inputs,
(Represented by Mr. K.Venkata Mukunda Reddy, Director)
D.No.8-256, Tata Nagar,
Balabhadrapuram -533 343,
Andhra Pradesh.

12. Sai Lakshmi Agro Warehouse
(Represented by Mr. K. Sudhatri, Partner)
D.No.8-256, Tata Nagar,
Balabhadrapuram -533 343,
Andhra Pradesh.

13. Sai Swarupa Agro Storage,
(Represented by Mr. K. Vanaja, Partner)
D.No.8-256, Tata Nagar,
Balabhadrapuram -533 343,
Andhra Pradesh.

14. Mrs. T. Vanaja,
2-1/1, Ramannapeta,
Komaripalem-533 346,
Andhra Pradesh.

.. Applicants

Counsel for the Applicants

.. Sri S. Chidambaram

CORAM

Hon'ble Mr. RAJESWARA RAO VITTANALA, MEMBER (JUDL)

Hon'ble Mr. RAVIKUMAR DURAISAMY, MEMBER (TECH)

Handwritten signature

ORDER**(As per Rajeswara Rao Vittanala, Member (J))**

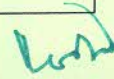
1. The application was initially filed before Company Law Board, Chennai Bench, Chennai. Since, NCLT, Hyderabad Bench has been constituted for the cases relating to the states of Andhra Pradesh and Telangana, the case is transferred to Hyderabad Bench. Hence, we have taken the case on records of NCLT, Hyderabad Bench and deciding the case.
2. The present application filed by the 14 applicants as mentioned above under section 621A read with section 295 of the Companies Act, 1956 and Regulation 14 of the Company Law Board Regulations, 1991.
3. K.P.R. Agrochem Limited was originally incorporated as K.P.R Fertilizers Private Limited on 2nd January, 2007 as Private Limited Company and converted in to Public Limited Company on 19th December, 2008. The Corporate Identity Number (CIN) of the company is U24129AP2007PLC052216. On 21st September 2015, the company has changed its name to K.P.R. Agrochem Limited. The Registered Office of the Company is situated at Door No. 8-256, Tata Nagar, Balabhadrapuram-533 343, Andhra Pradesh.

Authorised Share Capital is Rs.125,00,00,000/- (Rupees One Hundred and Twenty Five Crores only) divided into 12,50,00,000 (Twelve Crores Fifty Lakhs) shares of Rs.10/- (Rupees Ten) each. Paid up capital is Rs.85,46,40,000/- (Rupees Eighty five Crores Forty Six Lakhs Forty Thousand only) divided into 8,54,64,000 (Eight Crores Fifty Four Lakhs Sixty Four Thousand) fully paid up equity shares Rs.10/- (Rupees Ten) each. The present business activities of the company is manufacture of fertilizers and chemicals.

4. It is stated in the application that the company has given collateral security without obtaining the approval of the Central Government, to the following companies, in which the directors of the applicant company are also directors/members and to the firms in which either directors of the Applicant No.1 Company or their relatives are partners.



S.No	Period/Date of violation	Names of the parties	Particulars of transactions
1	24.08.2009	1. Arvind Seeds Private Limited 2. Sri Sai Swarupa Seeds Private Ltd	Provided collateral security for the loans by the parties
2	12.05.2010	1. Arvind Seeds Private Limited 2. Sri Sai Swarupa Seeds Private Ltd	Provided collateral security for the loans by the parties
3	13.09.2010	1. Sri Lakshmi Poultry Complex 2. Papa Reddy Poultries 3. Padmaja Farms	Provided collateral security for the loans by the parties
4	15.11.2010	KPR Agro Farms	Provided collateral security for the loans by the parties
5	30.03.2011	Sri Lakshmi Poultry Complex	Provided collateral security for the loans by the parties
6	05.05.2011	1. Sri Lakshmi Agro Warehouse 2. Sai Swarupa Agro Storage	Provided collateral security for the loans by the parties
7	10.10.2011	1. Sri Lakshmi Agro Warehouse 2. Sai Swarupa Agro Storage	Provided collateral security for the loans by the parties
8	21.12.2011	1. Sri Lakshmi Agro Warehouse 2. Sai Swarupa Agro Storage	Provided collateral security for the loans by the parties
9	30.11.2012	1. Sri Lakshmi Poultry Complex, Hospet 2. Padmaja Farms	Provided collateral security for the loans by the parties
10	2012-13	Padmaja Farms	Given Advance to the relative of a Director
11	26.02.2014		Provided collateral security for the loans by the parties



As per section 295 of the Companies Act, 1956, no company can directly or indirectly make any loan to or giving guarantee or provide any security in connection with a loan made by any other person, without obtaining previous approval of the Central Government by the following persons:

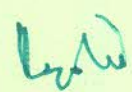
- (a) any director of the lending company or of a company which is its holding company or an partner or relative of any such director;
- (b) any firm in which any such director or relative is a partner;
- (c) any private company of which any such director is a director or member,
- (d) anybody corporate at a general meeting of which not less than twenty-five per cent of the total voting power may be exercised or controlled by any such director or by two or more such directors together; or
- (e) anybody corporate, the Board of directors, managing director, or manager whereof is accustomed to act in accordance with the directions or instructions of the board, or of any director or directors of the lending company.

As per section 295(3) if the above acts are done without the previous approval of the Central Government, the concerned company has to either obtain the approval of the Central Government to the transaction or enforce the repayment of the loan or in connection with the guarantee given or to the security provided, notwithstanding any agreement to the contrary within 6 months from the commencement of the Act or further extension of not exceeding 6 months with the grant of Central Government. As per section 295(4) of the Companies Act, 1956, every person who is knowingly the party to the contravention of sub-section (1) or (3) including any particular person to whom the loan is made (or) who has taken the loan in respect of which guarantee is given or the security is provided, shall be punishable either with fine which may extend to Rs.50,000/- or with simple imprisonment for a term which may extend to 6 months.

It is further stated that the applicants have committed the said violation without any mala-fide intention, wilful or wanton. It is further contented that the above violation did not cause any prejudice to any of the shareholders or any other stakeholders. They also contend by accepting the violation as mentioned above and voluntarily approaching this Tribunal for compounding under section 621A r/w 295 of the Companies Act, 1956.

Handwritten signature

5. Heard Sh. S. Chidambaram, Practicing Company Secretary and also perused the proceedings of the Registrar of Companies, Hyderabad for the State of Andhra Pradesh and Telangana vide proceedings No. RAP/Legal/Sec.295/621A/KPR/STA/2016/613 dated 02.05.2016.
6. The Learned Practicing Company Secretary reiterated the contentions raised in the application and also submitted that since this is the first violation of this nature, the Tribunal may take lenient view of the matter and permit the applicants to compound the violation in question with minimum of the fine prescribed in section 295(4) of the Companies Act, 1956.
7. The Registrar of Companies vide its report dated 02.05.2016 as mentioned above, while confirming the averments made in the application, has stated that the violations in question admitted by the applicants as they did not obtain any prior approval of the Central Government and also stated, it is the first offence committed by the Applicants of this nature. The Registrar of Companies submitted the application can be considered on merits by the Tribunal.
8. We have carefully considered various pleadings made in the application and the oral contentions made by the Learned Practicing Company Secretary. It is not in dispute that the Applicants have admitted violation of the section 295 of the Companies Act, 1956 and have come forward voluntarily to the Tribunal by seeking permission to compound the violation by paying the fine as prescribed under the Act. We hold that the facts and circumstances of the case justify exercising powers conferred upon the Tribunal under the Companies Act in permitting the applicants to compound the violations in question.



THIS BENCH DOTH ORDER

In view of the above facts and circumstances of the case and in the interest of justice, we are inclined to permit the applicants to compound the violation as mentioned above by paying the compounding fee. We direct the 14 applicants to pay Rs.50,000/- (Rupees Fifty Thousand only) each and deposit the same with the authorities within two weeks.

Further we also direct the applicants to ensure compliance of Section 295 within four weeks from the date of receipt of the Order and report the compliance.

The applicants are warned to be careful in the future and if such conduct is ever repeated, then appropriate proceedings shall be initiated and a serious view shall be taken. In terms of the above directions, the Application is disposed off.

RAVIKUMAR DURAISAMY (TECH)

RAJESWARA RAO VITTANALA (JUDL)