

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH AT HYDERABAD**

C.A. No. 47/621A/HDB/2016

Date of order: 30.12.2016

Between:

1. Kaveri Seed Company Limited
Represented by its Managing Director,
Sri G.V. Bhaskar Rao and its Directors Viz.:
2. Shri G.V. Bhaskar Rao,
Plot No.23, Bunglow No.205,
Tarbund, Card Master Enclave,
Sikh Village, Secunderabad-500009,
Telangana.
3. Smt. G. Vanaja Devi
Plot No.23, Bunglow No.205,
Tarbund, Card Master Enclave,
Sikh Village, Secunderabad-500009,
Telangana.
4. Shri C. Vamsheedhar
H.No.13/B, Old Santosh Nagar,
Hyderabad-500059, Telangana.
5. Shri C. Mithun Chand
H.No.13/B, Old Santosh Nagar,
Hyderabad-500059, Telangana.

...Applicants

And

The Registrar of Companies, Hyderabad
For the states of Telangana and Andhra Pradesh
2nd Floor, Corporate Bhavan,
GSI Post, Near Indu Aranya,
Thatti Annaram, Hyderabad,
Telangana-500068



...Respondent

Counsel for the Applicants

... Shri L. Dhananjay Reddy, PCS

CORAM

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

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

ORDER

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

1. The present Company Application was initially filed before the Hon'ble Company Law Board, Chennai Bench, Chennai. Upon the constitution of NCLT Bench at Hyderabad for the cases pertaining to the States of Andhra Pradesh and Telangana, the present case papers without allotting number is transferred to Hyderabad Bench of NCLT. Hence, fresh case number has been allotted by NCLT, Hyderabad Bench and thus deciding it.
2. The present application (herein after referred to as application) dated 16.11.2013 was filed by the applicants, under Section 621A of the Companies Act, 1956 (referred to as "Act" hereinafter) before CLB/Chennai praying the Tribunal for compounding the offences committed under Sections 159 & 220 of the Act by admitting their defaults in complying with the said provisions. The company is stated to have violated several provisions of the Companies Act and, filed several applications seeking to compound those offences. Some of the applications consisting of more than one offence and, instead of asking

the applicants to file separate applications for each offence, we are deciding the case in order to avoid further delay in deciding the case.

3. The learned PCS submits that Kaveri Seeds Company Limited was originally incorporated on 27.08.1986, under the provisions of the Companies Act, 1956. Its registration number is L01120AP1986PLC006728 and, its office is situated at 513-B, 5th Floor, Minerva Complex, S.D. Road, Secunderabad – 500003. The authorised capital of the Company is Rs.20 Crores (Rupees Twenty Crores only) divided into 2 Crore equity shares of Rs.10/- each. The Paid up Capital of the company is Rs.13,81,10,190/- (Rupees Thirteen Crores Eighty one Lakhs Ten Thousand and One Hundred Ninety only) divided into 1,38,11,019 (One Crore Thirty Eight Lakhs Eleven Thousand and Nineteen) equity shares of Rs.10/- each. The present business of the company is production and marketing of Hybrid Seeds and Micronutrients.

4. We have heard Shri L. Dhananjay Reddy, PCS for Applicants and, carefully perused various averments made in the application along with material papers and, the reports furnished by the Registrar of Companies, Hyderabad (RoC) in the case.

5. The learned PCS submits that the Company was issued two show cause notices vide 1) Ref no: RAP/DROC(D)/CK/Kaveri/234/159/1700 &



162/2013 dated 20.09.2013 and 2) Ref no:

RAP/DROC(D)/CK/234/Kaveri/220/1696 dated 20.09.2013.

The Regional Director Southern Region, Ministry of Corporate Affairs Chennai has ordered technical scrutiny of the accounts of the Company. As per the first show cause notice mentioned above, it is observed that annual returns for the years 2007 & 2008 were filed by the Company, after 60 days from the date of Annual General Meeting. As per section 159 of the Act, every company having a share capital has to submit its annual return within 60 days from the day on which each of the annual general meetings held. So the above show cause notice given by the Registrar companies by show causing as to why action should not be taken for prosecution under Section 162 for contravention of Section 159 of the Act granting 15 days time for reply.

6. He further submit that the second show-cause notice was issued under Section 220 of the Companies Act. During the said technical scrutiny, it was also found that the Balance Sheets and Profit and Loss Accounts along with relevant reports for the year 2008 & 2009 were filed by the company, after lapse of 30 days from the date of Annual General Meeting, which is in contravention of Section 220.
7. The learned PCS submits that the company has uploaded balance sheets and profit loss Accounts for the financial year 2008 on 19.12.2008 in Form No. 23AC & 23ACA (with 49 days delay) and for the financial year 2009 on 17.11.2009 in Form No. 23AC & 23ACA (with 26 days



delay) along with additional filing fee for 49 days and 26 days respectively. The balance sheets and P&L Account should be filed within 30 days from the date of annual general meeting of the company as per Section 220 of the Act. However, it could not be done within time due to technical problem of MCA portal.

He has further submitted that the company has uploaded annual return for the financial year 2007 in Form No. 20B on 13.12.2007 with a delay of 29 days and the annual return for the year 2008 in Form No. 20B on 19.12.2008 with a delay of 19 days by paying additional fee.

8. The learned PCS submits that the said violations were made good as stated above and delay was mainly caused due to MCA portal problems and, it was neither intentional nor negligence on their part. Hence, he submits the said offences may be permitted to compound with suitable fine in accordance with law.

9. The RoC submitted its reports vide three proceedings no. 1) ROCH/AP & TG/Kaveri/621A/STACK/Sec220/2016 dated 07.10.2016, 2) ROCH/LEGAL/SEC-162/441/KSCL/STACK/2016/3645 dated 05.12.2016, 3) ROCH/LEGAL/SEC-220/441/ KSCL/STACK/2016 /3646 dated 05.12.2016.

10. As per the said letter dated 7.10.2016, the RoC has stated that the Company has filed a single application for compounding two different violations U/s 162 and 220 of the Act but the Company has to file



separate form GNL 1 along with petition for each offence with two different fees for each GNL I. Hence, the office has advised the company to file separate application for each offence and submits that NCLT may be pleased to pass appropriate orders as deemed fit and proper on merits of the case.

11. The RoC, subsequently has forwarded two reports vide proceedings no

1. ROCH/LEGAL/SEC-162/441/KSCL/STACK/2016/3645 dated 05.12.2016 and 2. ROCH/LEGAL/SEC-220/441/STACK/2016/3646 dated 05.12.2016.

12. The RoC vide his first proceedings ROCH/LEGAL/SEC-162/441/KSCL/STACK/2016/3645 dated 05.12.2016 has interalia stated that the company has uploaded annual return for the financial year 2007 & 2008 in forms 20B on 13.12.2007 and 19.12.2008 along with additional fee for delay of 29 days and 19 days respectively. The company has violated the provisions of Section 159 of the Act and it is the first offence committed by the company under the said section.

As per Section 162(1) of the Act, the company and every officer of the company who is in default shall be punishable with fine which may extent to Rs. 500/- for every day during which the default continues, if a company fails to comply with any of the provisions contained in Sections 159/160 or 161.



13. The RoC vide his second letter ROCH/LEGAL/SEC-220/441/STACK/2016/3646 dated 05.12.2016 as stated that the company has filed balance sheets (Form 23AC/ACA) for the year 31.03.2008 & 31.03.2009 the Date of Filing 19.12.2008 & 17.11.2009 with additional Fee for the delay of 49 days and 26 days. It is stated that it was the first offence committed under the above Section.

As per section 220 (3): if default is made in complying with the requirements of Sub-Section (1) and (2), the company, and every officer of the company who is in default, shall be liable to the like punishment as is provided under section 162 for a default in complying with the provisions of Section 159, 160 or 161.

14. The RoC left the issue to the NCLT to decide the issue on merits as per Law.

15. The facts as narrated above shows that the defaults in question are neither intentional nor deliberate on the part of the Company as submitted by the learned PCS for the Company. It is also not in dispute that the offences in question were made good by the Company however with some delays as mentioned above by paying additional fees. The Registrar of Companies has also not opposed the application for compounding of the offences and also confirmed that the offences in question are first of its nature committed by the Company.



16. We are satisfied that sufficient reasons have been shown for condoning the delay in complying with the offences in question committed by the Company. And nobody is going to be effected if the present application is allowed for compounding the above offences. Hence, we condone the delay as mentioned above and are inclined to permit the applicants to compound the offences in question.

17. In the result the Company application bearing no. C.A.No. 47/621A/HDB/2016 is allowed permitting the applicants to compound offences in question, subject to the following terms & conditions;

- a. Each applicant has to pay Rs. 200/- per each day (49+26+29+19 = 123 days, 123x200 = 24,600) amounting to Rs. 24600/- within a period of three weeks from the date of receipt of the copy of the order.
- b. And also comply the requirements, if any, asked by the Registrar of Companies.
- c. The Applicants are warned not to repeat any violation else strict action will be taken thereby.

In view of the above, the case is disposed off.

Sd/-

RAVIKUMAR DURAISAMY
MEMBER (T)



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

Sd/-

RAJESWARA RAO VITTANALA
MEMBER (J)

**CERTIFIED TO BE TRUE COPY
OF THE ORIGINAL**