

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, AT HYDEABAD
C.A. NO.30/621A/HDB/2016**

Date of Order: 9.6.2017

1. Mr. Jella Jagan Mohan Reddy,
S/o Mr. Jella Nagamalla Reddy,
Former Director, Jagati Publications Limited,
Flat No.17LH,
902, Lanco Hills, Manikonda,
Hyderabad – 500 089.
2. Mr. Harish C. Kamarthy,
S/o Mr. Channa Verrapa Kamarthy,
Former Director, Jagati Publications Limited,
#333, 8-2-603/2/M,
Road No.10, Banjara Hills,
Hyderabad – 500 034.
3. Mr. Sajjala Ramakrishna Reddy,
S/o Mr. Sajjala Subba Reddy,
Former Whole Time Director,
Jagati Publications Limited,
H.No.7-56/322 to 324,
Prashanti Hills, Raidurg Navkhalsa,
Serlingampalli,
Hyderabad – 500 008.
4. Mr. Yeduguri Sandinti Jagan Mohan Reddy,
S/o Mr. Yeduguri Sandinti Raja Sekhar,
Former Director, Jagati Publications Limited,
'Plot No.3, 4 and 5, Lotuspond Residency,
Road No.12, Banjara Hills,
Hyderabad – 5-00 034.
5. Mr. Yerramreddy Eswara Prasad Reddy,
S/o Mr. Yerramreddy Chinna Chenna Reddy,
Whole Director, Jagati Publications Limited,
Plot No.424, Road No.78, Jubilee Hills,
Hyderabad – 500 033.

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6. Mr. Kalva Raja Prasad Reddy,
S/o Mr. Kalva Ramachandra Reddy,
Whole Time Director,
Jagati Publications Limited,
R/o 1-1503, Aparna Sarovar,
Kanche Gatchibowli, Gopannapally,
Ranga Reddy, Hyderabad – 500 046.
7. Mr. Paladugu Venkata Krishna Prasad,
S/o Mr. Paladugu Madhava Rao,
Whole Time Director,
Jagati Publications Limited,
#94, Eshwar Vilas, Nizampet,
Quthbullapur, Ranga Reddy,
Hyderabad – 500 072.
8. Mr. Honnappanahalli Veeranna Eswaraiah,
S/o Mr. Honnappanahalli Veeranna,
Former Director, Jagati Publications Limited,
No.16, Kalyam 3rd Temple Street,
15th Cross, Malleswaram,
Bangalore – 560 003.
9. Mr. Amtur Narayana Prakashrao,
S/o Mr. Amtur Narayana,
Director, Jagati Publications Limited,
Resident of No.410, VBHS,
7th Main, 9th Cross, Behind IIM,
Banergatta Road,
Bangalore – 560 076.
10. Mr. Vemireddy Sreedhar Reddy,
S/o Mr. Vemireddy Ramachandra Reddy,
Director, Jagati Publications Limited,
Resident of 4-1-1236/9,
King Koti, Abids,
Hyderabad – 500 001.
11. Mr. Chityala Prabhu Narasimha Karthik,
S/o Mr. Chityala Ramasastry Prabhu,
Company Secretary,
Jagati Publications Limited,
Plot No.107, H.No.9-80/1/1,
Street No.4, Uday Nagar Colony,
Boduppal,
Hyderabad – 500 039.

.. Applicants

Counsel for the Applicants:

:Shri K. Dushyantha Kumar, PCS.



CORAM:

The Hon'ble Mr. RAJESWARA RAO VITTANALA, MEMBER (JUDL)
The Hon'ble Mr. RAVIKUMAR DURAISAMY, MEMBER (TECH)

ORDER

(AS PER Mr. RAVIKUMAR DURAISAMY, MEMBER (TECHNICAL))

1. The Application was initially filed before the Hon'ble Company Law Board, Chennai Bench, Chennai. Since the National Company Law Tribunal (NCLT), Hyderabad Bench, has been constituted for the cases pertaining to the States of Andhra Pradesh and Telangana, the case was transferred to the Hyderabad Bench of NCLT. hence, we have taken the case on records of NCLT, Hyderabad Bench and deciding the case.
2. The present Application has been filed by (1) Mr. Jella Jagan Mohan Reddy, Former Director; (2) Mr. Harish C. Kamarthy, Former Director; (3) Mr. Sajjala Ramakrishna Reddy, Former Whole Time Director; (4) Mr. Yeduguri Sandinti Jagan Mohan Reddy, Former Director; (5) Mr. Yerramreddy Eswara Prasada Reddy, Whole Time Director, (6) Mr. Kalva Raja Prasad Reddy, Whole Time Director; (7) Mr. Paladugu Venkata Krishna Prasad, Whole Time Director; (8) Mr. Honnappanahalli Veeranna Eswaraiah, Former Director; (9) Mr. Amtur Narayan Prakash Rao; Director (10) Mr. Vemireddy Sreedhar Reddy, Director and (11) Mr. Chityala Prabhu Narasimha Karthik; Company Secretary, for compounding the offences under Section 621A in the matter of Section 211(1) read with Schedule VI of Companies Act, 1956. Form GNL 1 had also been filed by Sri Chityala Prabhu Narasimha Karthik bearing No. SRN:C79607644 praying the Board for compounding the offence.
3. The brief facts of the case as mentioned in the Application are that :
 - a) Jagati Publications Limited, was incorporated under the Companies Act, 1956 vide CIN U22212TG2006PLC051651, dated 14.11.2006, having its Registered Office at 6-3-249/1, Sakshi Towers, Banjara Hills, Road No.1, Hyderabad, Telangana – 500 034



- b) The present Authorised Share Capital of the Applicant Company is Rs.1,20,00,00,000/- (Rupees One Hundred Twenty Crores Only) divided into 12,00,00,000 (Twelve Crores) equity shares of Rs.10/- each and paid up capital is Rs.1,06,55,84,810/- (Rupees One Hundred and Six Crores Fifty Five Lakhs Eighty Four Thousand and Eight Hundred Ten only) divided into 10,65,58,481 equity shares of Rs.10/- each.
- c) The main objects of the Company are to carry on business as a publisher of daily, weekly, monthly, magazines, newspapers on topic of public interest, Social Cultural, art and musical production, general commercial, colour, craft, and process printers, lithographers, photographers, engravers, die makers, plan and chart printers press and advertising agents, contractors etc.,
- d) As per the provisions of Section 211(1) of the Companies Act, 1956 every balance sheet of a company shall give a true and fair view of the state of affairs of the company as at the end of the financial year and shall subject to the provisions of this section be in the form set out in Part-I of Sch-VI, or as near there as circumstances admit or in such other form as may be approved by the Central Government either generally or in particular case, and in preparing the balance sheet due regard shall be had, as far as may be, to the general instructions for preparation of balance sheet under heading "Notes" at the end of the part.
- e. The Office of the Regional Director, South East Region, Hyderabad, during the inspection of books of accounts of the Company's Balance Sheet for the years 2006-07, 2007-08, 2008-09, 2009-10, 2010-11, 2011-12 and 2012-13, has observed that the Company has violated the provisions of Section 211(1) read with Schedule VI of the Companies Act 1956.
- f. During the Course of scrutiny of Balance Sheet as at 31.03.2010 by the Office of the Regional Director, the Balance Sheet as at 31.03.2010 prepared by the company disclosed the issued capital



as Rs.95,61,49,000/- instead of disclosing the issued Capital as Rs.100,00,00,000/- thereby resulting in disclosing the false particulars of Issued Capital in the Balance Sheet prepared as at 31.03.2010. This has resulted in violation of Section 211 (1) of Companies Act, 1956 read with Schedule VI of the Companies Act, 1956. .

- g. The Applicants admit that inadvertently the issued capital was mentioned as Rs.95,61,48,670/- instead of Rs.1,00,00,00,000/- in the balance sheet for 2009-10 (covering the period 01.04.2009 to 31.03.2010)
- h. As per Section 211 (7) of the Companies Act, 1956 fine prescribed by the Act "if any such person as is referred to in sub-section (6) of section 209 of the Companies Act, 1956 fails to take all reasonable steps to secure compliance by the company, as respects any accounts laid before the company in general meeting, with the provisions of this section and with the other requirements of this Act as to the matters to be stated in the accounts, he shall, in respect of each offence, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both", Provided that in any proceedings against a person in respect of an offence under this section, it shall be a defence to prove that a competent and reliable person was charged with the duty of seeing that the provisions of this section and the other requirements aforesaid were complied with and was in a position to discharge that duty, provided further that no person shall be sentenced to imprisonment for any such offence unless it was committed wilfully" :
- i. The Applicants submit that the default is not intentional and is not of such nature as would prejudice the interests of the members or creditors or others dealing with the applicants company. The applicants unequivocally declare that the said default is such as not to affect the public interest in any way, and no harm is caused to the public interest.
- j. This is a fit case for grant of relief by composition of offence and the Bench may kindly take a lenient view and may levy the compounding fees reasonably.



- k. The Registrar of Companies, Hyderabad, has furnished vide Report No.RAP&TG/Jagati/621A/STA/2016/Sec 211(1)/939, dated 25.05.2016 stating that the applicants have not clearly mentioned how the offence was made good. Hence, the applicants may be put to strict proof of the same
4. The learned Practicing Company Secretary, while reiterating various contentions raised in the company application, has further submitted that CLB/NCLT is having the power to compound the offence in question. In support of his contentions, he has relied upon the following cases:
- i) Hofland Finance Limited in re(1997) 13 SCL 12 (CLB-Delhi)
 - ii) VLS Finance Limited Vs. Union of India (2005) 123 Company cases 33 (Delhi).

He has thus submitted that NCLT has full powers to compound offences attracting imprisonment or fine or both, even without referring to any Criminal Court or Special Courts. Therefore, he prayed that the Tribunal can allow the present compounding offence.

5. With regard to the question whether NCLT has full powers to compound offences attracting imprisonment or fine or both, even without referring to any Criminal Court or Special Courts was already discussed by this Bench in detail in the matter of Cambridge Technology Enterprises Limited (C.A. No.59/621A/HDB/2016) vide order dated 21.12.2016 wherein it was held that NCLT has full power to compound. Therefore, to avoid repetition of the stand already taken by this Tribunal, we deem fit not to elaborate the same in this order.
6. Upon perusal of the documents it is noted that though the Balance Sheet was signed by a Chartered Accountants Firm, 2 Directors, Chief Financial Officer and the Company Secretary of the Company, the applicants still plead that due to 'inadvertency' the Issued Capital is mentioned wrongly, which indicates the casual approach of all concerned in preparing Balance Sheet which is an important document / Financial Statement for the Company.



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7. We have considered all the records, submissions of the applicants and the reasons cited by them and we are inclined to compound the application with the following directions:

- a) All the Applicants from No.1-10 of the Jagati Publications Limited are directed to pay a sum of Rs.60,000/- (Rupees Sixty Thousand) each (Rs.10,000 X 6 years) towards compounding fee as prescribed under Section 211(7) of the Companies Act, 1956.
- b) Applicant No.11 is directed to pay a sum of Rs.30,000/- (Rupees Thirty Thousand only) (Rs.5,000/- X 6 years), towards the compounding fee as prescribed under section 211(7) of the Companies Act, 1956.
- c) All the Applicants are required to pay the compounding fee within a period of three weeks from the date of receipt of the copy of the order and report compliance of the same to the Registry of NCLT.
- d) The Applicants are warned to be careful in future and not to repeat any violation of the provisions of the Companies Act or else serious view will be taken by the Tribunal.
- e) In terms of the above directions the C.A. No.30/621A/HDB/2016 is disposed off.




RAVIKUMAR DURAISAMY
MEMBER (TECHNICAL)


RAJESWARA RAO VITTANALA
MEMBER (JUDICIAL)

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