

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, AT HYDERABAD**

C.A. No.36/621A/HDB2016

In the matter of:

1. Mr. Venumbaka Vijaya Sai Reddy,
S/o Mr. Venumbaka Sundrarami Reddy,
Former Director, Jagati Publications Limited,
Resident of H.No.8-2-293/82/HE,
Plot No.41, Road No.70, Huda Enclave,
P.O. Film Nagar, Jubilee Hills,
Hyderabad – 500 033
Former Director.
2. Mr. Jella Jagan Mohan Reddy,
S/o Jella Nagamalla Reddy,
Former Director,
Flat No.17LH, 902,
Lanco Hills, Manikoda,
Hyderabad – 500 089.
Former Director.
3. Mr. Harish C. Kamarthy,
S/o Mr. Channa Verrapa Kamarthy,
Former Director,
333, 8-2-603/2/M, Road No.10,
Banjara Hills,
Hyderabad – 500 034.
Former Director.

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

.....Applicants



Judgement delivered on: 28.06.2017.

CORAM:

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

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

Parties Present

Counsel for the Applicants:

Shri Dushyatha Kumar
P.C.S.

Per: Mr. RAVIKUMAR DURAISAMY, MEMBER (TECHNICAL)

JUDGEMENT

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 is transferred to the Hyderabad Bench of NCLT, hence, we have taken the case on records of NCLT, Hyderabad Bench and deciding the case.

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2. The present Application has been filed by (1) Mr. Venumbaka Vijaya Sai Reddy, Former Director; (2) Mr. Jella Jagan Mohan Reddy, Former Director and (3) Mr Harish C Kamarthy, Former Director, under Section 621A, for compounding the offences under Section 211(3B), r/w 211(7) read with AS-3 of the Companies Act, 1956 r/w AS-3 vide SRN:C79571675. GNL 1 had also been filed by Chityala Prabhu Narasimha Karthik, praying the Board for compounding the offence.
3. The brief facts of the case as mentioned in the Application are that :
 - a) The Applicant Company, Jagati Publications Limited, a Limited Company 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 Six Crores Fifty Five Lakhs Eighty Four Thousand Eight Hundred Ten only) divided into 10,65,58,481 (Rupees Ten Crores Sixty Five Lakhs Fifty Eight Thousand Four Hundred Eighty One) equity shares of Rs.10/- each.
4. The main objects of the Applicant 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.,
5. 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, it has been observed that the Company has violated the provisions of Section 211(3B) of the Companies Act 1956. The Registrar of Companies, pointed out that during the year 2006-2007 (i) the Company has not prepared cash flow statement as per



AS-3; (ii) The company has not disclosed related party transactions with Janani Infrastructure Pvt Ltd for 2006-07 as per AS-18; (iii) nondisclosure of related party transactions with M/s Carmel Asia Holdings Pvt Ltd for 2006-07 as per AS-18; (iv) nondisclosure of related party transactions with M/s Sandur Power Company Limited for 2006-07 as per AS-18 and (v) nondisclosure of related party transactions with Mr. Y.S. Jagan Mohan Reddy for 2006-07 as per AS-18. Further, the company has not made any disclosure about non-presentation of Cash Flow Statement and Non-disclosure of related party transactions for 2006-07 and reasons for non-compliance of the above in Balance Sheet and P&L account, which has resulted in violation of Section 211(3B) of the Companies Act, 1956 prescribed vide Companies (AS-3 and AS-18 prescribed vide Companies (Accounting Standards) Rules 2006 for the Year 2006-07.

6. 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 the 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".

7. a) For the allegations raised in the preliminary Findings Letter the Company replied to Office of the The Regional Director, South East Region, Hyderabad stating that the Company has maintained Books of Accounts in line with the provisions of Section 211 read



With Part 1 and Part 2 of schedule VI to the Companies Act, 1956. We were of the opinion that our company was exempted for disclosure under AS-3 & AS-18 as it falls under SME category as notified by the Ministry of Corporate Affairs vide its Notification No. GSR739 (E) dated 07.12.2006.

8. The Registrar of Companies, Hyderabad, furnished vide Report No.RAP&TG/Jagati/621A/STA/2016/Sec.211(3B)/943, dt,25.05.2016 has furnished, 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. The Applicants submit that, they have maintained book of accounts in line with the provisions of Section 211 read with part-1 and part-2 of Schedule VI to the Companies Act, 1956 and they were of the opinion that they are exempted for disclosure under Accounting Standard-3 & 18, as it falls under small and Medium Enterprises category as notified by the Ministry of Corporate Affairs vide its notification No. GSR 739 (e), dated 07.12.2006 and the accounting period of the company commenced on 14.11.2006, being the date prior to issue of GSR notification. However, the above submissions/contentions was not accepted by Regional Director.
9. For the Allegations raised in the preliminary Findings letter the company replied to the Office of the Regional Director, South East Region, stating that the Applicants have also submitted that Company will ensure the proper compliance henceforth, as the re-filing process is not available in MCA Portal, the company is not able to re-file to make compliance good.
10. The Applicants have accepted that they have not disclosed the related party transactions with M/s Janani Infrastructure Private Limited, M/s Carmel Asia Holding Pvt Limited, M/s Sandur Power Company Limited Private Limited and with Mr. Y.S. Jagan Mohan Reddy in accordance with AS-18.



11. As stated in other CA No.34, we would like to take a lenient view on non-preparation of Cash Flow Statement for 2006-07 and the related party transactions with Mr. Y.S. Jagan Mohan Reddy as the transition value was only to an amount of Rs.40,230. However, we are of opinion that the non-disclosure with other related party transactions with the other 3 entities namely Janani Infrastructure Private Limited, Carmel Asia Holding Private Limited and Sandur Power Company Limited, resulted in non-compliance of AS-18.
12. Jagati Publications Limited was a subsidiary to Sandur Power Company Limited during 2006-07. The Sandur Power Company was having borrowings in excess of Rs.10 crores, prescribed in 2006-07, as it has dues payable to subsidiary Company to the tune of Rs.26,67,26,674 as is evident from the Current Liabilities Schedule-10 of its balance Sheet as at 31.3.2007. This borrowing is in addition to the Secured Loan Borrowings outstanding to be payable to the tune of Rs.8,58,48,803 as at the beginning of its financial year 2006-07 as was evident from the Schedule-3 Secured Loans of its Balance Sheet at 31.03.2007.
13. 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.
14. Considering the above facts and circumstances of the case, we are inclined to compound the offence/default committed in noncompliance of Section 211(3B) of the Companies Act, 1956 read with AS-18. Accordingly we direct that the Applicants to pay the following compounding fee.
 - a) All the Applicants are directed to pay a sum of Rs.1,00,000/- (Rupees One Lakh only) each towards the compounding fee (Rs.10,000 X 10 years).



- b) 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.
- c) 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.
- d) In terms of the above directions the C.A. No.36/621A/HDB/2016 is disposed off.



Sd/-
RAJESWARA RAO VITTANALA
MEMBER (JUDICIAL)

Sd/-
RAVIKUMAR DURASAMY
MEMBER (TECHNICAL)

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OF THE ORIGINAL**

V. Annapoorna
V. ANNAPOORNA
Asst. DIRECTOR
NCLT, HYDERABAD.