

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

**CA No. 64/621A/HDB/2016**

**Date of Order: 20.01.2017.**

1. Cambridge Technology Enterprises Limited  
Regd. office at Unit No. 04-03, Level 4  
Block I, Cyber Pearl, HITTEC City  
Madhapur, Hyderabad-500 081
2. Mr. Stefan Hetges, Whole Time Director
3. Mr. Motaparthi Venkateswara Rao Kasi, Director
4. Mr. Mallipudi Anand Pattabhiramkumar, Director
5. Mr. Venna Ramana Reddy, Company Secretary

(Applicant No. 2 to 5 are represented by

Power of attorney holder Mr. DRR Swaroop, Whole Time Director)

... Applicants

Authorised Representative for the Applicants:

Mr. S. Chidambaram

Practising Company Secretary

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

**CORAM:**

Hon'ble Mr. Ravikumar Duraisamy, Member (Technical)

Hon'ble Mr. Rajeswara Rao Vittanala, Member (Judicial)



**ORDER**

**(As per Ravikumar Duraisamy, Member (T))**

1. This application was initially filed before the Hon'ble Company Law Board, Chennai Bench, Chennai (CLB). 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 Hyderabad Bench. Hence, we have taken the case on records of NCLT, Hyderabad Bench and deciding the case.

2. The present Company Application No.64/621A/HDB/2016 was filed by the Applicants U/s 621A R/w Section 211(3A)/(3C) of the Companies Act, 1956 (which is referred as Act hereinafter) ) R/w AS 20.

3. The brief facts which are relevant to the issue are:

i. The Applicant Company was registered in the name of Unique Solutions (India) Private Limited with the Registrar of Companies, Hyderabad on 28<sup>th</sup> January, 1999 under the Companies Act, 1956 and consequently the name was changed to Cambridge Technology Enterprises Limited vide Registration CIN L72200AP 1999PLCO30997 and the registered office of the Company is at 04-03, Level 4, Block 1, Cyber Pearl, Hitec City, Madhapur, Hyderabad – 500 081, Telangana, India. The authorised capital of the company is Rs.30 crores as on 31.03.2015 divided into three crores equity shares of Rs.10/- each. The main object of the Company as per its Memorandum of Association are to set up and run electronic data processing centre and to carry on the



business of data processing, word processing, software consultancy, designing , developing, manufacturing, marketing and trading in all types of computer software in all areas etc.

- ii. An inspection was carried on the Company by the Office of the Regional Director, Chennai, Ministry of Corporate Affairs, under section 209 of the Companies Act 1956.

4. The violation raised in the present application relates to Section 211(3A)/(3C) of the Act r/w AS 20. As per Section 211 (3A) of the Act, every Profit and Loss Account and Balance Sheet of the Company shall comply with Accounting Standard (AS) recommended by the Institute of Chartered Accounts of India.

As per AS 20 (Earnings per Share), Para 8, “an enterprise should present basic and diluted earnings per share on the face of the statement of profit and loss for each class of entity shares that has a different right to share in the net profit for the period. An enterprise should present basic and diluted earnings per share with equal prominence for all periods presented.”



However, on examination, during the said inspection it is found that Annual Reports for the financial years ended dated 31-03-2007 that the company did not disclose information relating to the “diluted earnings per share” on the face of the statement of profit and loss, Para 8 of the Accounting Standard 20, as explained above.



5. The applicants submitted a common explanation dated 26.07.2010 by justifying the action taken by the Company and, thus submitted that there was no violation under any of the Accounting Standards and, consequently there is no violation of Section 211 (3A)/(3C) of the Act r/w AS 20, and thus, requested to drop the alleged violation. However, the applicants choose to compound the said alleged offence by the present application seeking to compound the offence.
6. The applicants submitted a common explanation dated 26.07.2010 by justifying the action taken by the Company and, thus submitted that there was no violation under any of the Accounting Standards and, consequently there is no violation of Section 211 (3A)/(3C) of the Act r/w AS 20, and thus, requested to drop the alleged violation. However, the applicants choose to compound the said alleged offence by the present application seeking to compound the offence.
7. The Registrar of Companies, Hyderabad for the states of Telangana and Andhra Pradesh, has forwarded its report on the issue; vide ROC-AP&TG/Legal/Sec211/621A/CTEL/STACK/2016/1815 dated 01.08.2016. It is stated therein that Mr. DRR Swaroop, Whole Time Director, Mr. Stefan Hetges, Mr. M. Venkateshwar Rao Kasi, Mr. Mallipudi Anand Pattabhiramkumar and Mr. V. Ramana Reddy, Company Secretary, through their Power of Attorney holder, have submitted an application on 24<sup>th</sup> June, 2016 u/s 621A of the Companies



Act for compounding of the offence under Section 211 (3A)/(3C) of the Act r/w AS 20 .

8. It is further stated in the report that it is first offence of the Company coming for Compounding. As per section 211(8) of the Companies Act, 1956, if any person not being a person referred to in sub-section (6) of Section 209, having been charged by the managing director or manager, or Board of directors, as the case may be, with the duty of seeing that the provisions of this section and the other requirements aforesaid are complied with, makes default in doing so, he shall, in respect of each offence, be punishable with imprisonment for a term which may extend of six months or with fine which may extend to ten thousand rupees, or with both. The Registrar of Companies, however, did not oppose the application for compounding of the offence in question and thus submitted to the Tribunal to consider the case on merits.

9. Heard Sri S. Chidambaram, learned Practicing Company Secretary for the applicants and carefully perused all the pleadings, material papers filed in its support and the relevant case laws.



10. The learned PCS, 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. Moreover, the company has committed the offence in question for the first time and

the Registrar of the Companies has also not opposed the application and, they have come to the Tribunal suo moto. In support of his contentions, he has relied upon the following cases:

- i) Hoffland Finance Limited in re(1997)13 SCL 12(CLB-Delhi)
- ii) VLS Finance Limited Vs. Union of India (2005) 123 Company cases33 (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. And the word 'Or' indicates an alternative equivalent to either (Meriam Webster Dictionary) Therefore, he prayed that the Tribunal can allow the present compounding offence.

11. Whether the Tribunal has power to compound this type of violation was already discussed in detail (in similar matter of this Company) in CA No. 59/621A/HDB/2016 order dated 21.12.2016 of this Company. Therefore, to avoid repetition of the stand already taken by this Tribunal, we deem fit not to elaborate the same in this Order.



12. As discussed in the aforesaid Order, the provisions relating to compounding of offence under Section 621A of the Act and, the law as declared by the Hon'ble Full Bench of CLB and Hon'ble High Court of Delhi, which is affirmed by the Hon'ble Supreme Court, we hold that



this Tribunal is having power and jurisdiction to decide the issue in question in the present case.

13. Though the Applicants contend that the compounding application was made suomotu, however, from the facts, it is understood that the same was filed after a show-cause notice was issued by the RoC.

14. With regards to the averments made in the Application that it is not likely to cause any prejudice to the Applicant Company, its members or creditors is totally not acceptable in view of the above discussions in pre-paras as the Applicant Company is a listed company having many shareholders.

15. It is not in dispute that offence in question is compoundable and the applicants have also declared in unequivocal that the new management of the Company has taken appropriate actions and implemented policies/designs to prevent any future defaults and the same is unintentional and there is no mens rea.



16. The Registrar of Companies also has not opposed the case and left it to the consideration of Tribunal as per merits. We find the alleged offence would not cause any prejudice to any members or creditors of the Company and, it would not affect the public interest at large, if we

allow the present application for compounding. The Company also committed not to recur this type of the offences in future.

17. In the light of the facts and circumstances of the case and, also in the interest of Justice, we are inclined to allow the present application by exercising the powers conferred under Section 621A of the Companies Act, 1956, however, subject to payment of compounding fees for the alleged offence committed under Section 211 (3A)/(3C) of the Act r/w AS 20 with following conditions:

- a. We direct each applicants to pay Rs.10,000/- (Rupees Ten Thousand only), which is the maximum penalty prescribed under Section 211(8) of the Act, within a period of three weeks from the date of the receipt of the copy of the order.
- b. We further direct the Applicants to report compliance of the same to the Registry of NCLT.
- c. The applicants are also warned to be careful and not repeat any violation in future else serious view will be taken.

No order as to costs.



Sd/-

**RAVIKUMAR DURASAMY**

**Member (T)**

Sd/-

**RAJESWARA RAO VITTANALA**

**Member (J)**

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