

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL

HYDERABAD BENCH AT HYDERABAD

CA No. 06/621A/HDB/2016

Date of Order: 08 .03.2017



In the matter of:

1. Deccan Chronicle Holdings Limited
(Represented by Mr. T.Vinayak Ravi Reddy)
36, Sarojini Devi Road,
Secunderabad – 500003, Telangana
2. Mr. Tikkavarapu Venkatram Reddy,
Chairman
Plot No. 54, H.No-8-2-703/A-6/C
Road No.12, Banjara Hills
Hyderabad- 500034, Telangana
3. Mr. Tikkavarapu Vinayak Ravi Reddy,
Vice chairman and Managing Director
Plot No. 53, H.No-8-2-703/A-6/C
Road No.12, Banjara Hills
Hyderabad- 500034, Telangana
4. Mr. Karthik Iyer Parasuram,
Vice Chairman
H.No-8-2-283/B/5, Plot No.2
Road No. 3, Banjara Hills
Hyderabad – 500034, Telangana

.... Applicants

Counsel for the Applicants

.... Mr. Siva. K. Gopinathan

Mr. A.S.Prashanth

Mr. Amir Ali Bavani

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CORAM:

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

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

ORDER

(As per Ravikumar Duraisamy, Member (Tech))



1. The present application is filed before the then Hon'ble Company Law Board, Chennai (CLB). Since the National Company Law Tribunal (NCLT), Hyderabad has been constituted for the cases pertaining to the states of Telangana and Andhra Pradesh, the case is transferred to this Bench. Hence, we have taken it on records of NCLT, Hyderabad Bench and deciding the case.
2. The present application is filed by the Applicants under Section 621A of the Companies Act, 1956 for compounding the offences under Section 209(1)(c) of the Companies Act, 1956 before the Hyderabad Bench of NCLT, praying the Tribunal to take a lenient view in compounding the offences committed under the Companies Act, 1956.
3. The brief facts of the case as averred in the Application are as follows:
 - a. Deccan Chronicle Holdings Limited (hereinafter referred to as "Company") was incorporated on 16th December, 2002, under the provisions of the Companies Act, 1956 and registered as a Limited Company with the Registrar of Companies, Hyderabad (RoC) having CIN L22122AP2002PLC040110.
 - b. The present Authorised Share Capital of the Company is Rs. 70,00,00,000/- (Rupees Seventy Crores only) divided into

35,00,00,000 (Thirty Five Crores) Equity Shares of Rs. 2/- each out of which Rs. 41,79,44,438/- (Forty One Crores Seventy Nine Lakhs Forty Four Thousand Four Hundred Thirty Eight only) divided into 20,89,72,219 (Twenty Crores Eighty Nine Lakhs Seventy Two Thousand Two Hundred and Nineteen only) Equity Shares of Rs.2/- each have been issued and have been fully subscribed and paid up.



- c. The main objects of the Applicant Company are to carry on business of printers and publishers of newspapers, magazines, periodicals, journals, books and pamphlets and other library works in different languages and to carry on all or any of the business of printers, publishers, stationers, lithographers, typefounders, sterotypers, electrotypers, off-set printing, photographic printers, photolithographers, chrome-lithographers, engravers, diesinkers, book binders, card printers, Calendar printers, translators, paper and ink and or other stationery goods, book sellers, advertising agents, Engineers, and dealers in or manufacturers of or importers and exporters of any other article, goods, finished or unfinished or other things of a character or kind similar or analogous to the forgoing of any of their connected directly or indirectly with them, etc.
- d. The Company availed loans in the nature of ICD's and there was no specific minutes recorded in the Board Meeting authorising the Board to accept loan/deposit (ICDs) and hence it is submitted that, they have contravened the provisions of Section 292(1)(c) of the Companies Act, 1956.



e. It is further submitted that a resolution was passed in the meeting of the Board of Directors held on 23.03.2012 to raise Inter Corporate Deposits not exceeding Rs.100/- crores but due to inadvertence, the said resolution was not incorporated in the hard copy, which according to them is not a wilful violation and that the Management of the Company had taken all reasonable/necessary steps to ensure compliance of the Section 292(1)(c) of the Companies Act, 1956 in future.

f. Accordingly, the Applicants filed the present application for compounding of offence under Section 621A of the Companies Act, 1956.

4. We have heard the Learned Counsel for the Applicants, perused the RoC report dated 11.04.2016 and other connected case records available in the file.

5. The RoC, while affirming the contentions made in the Application, has stated that "the Applicants have not clearly mentioned in their Petition as to how the offences were made good and that while the Tribunal is considering the compounding application, the Applicants may be put to strict proof of the same." The RoC has mentioned that on 06.10.2014, vide SRN C24329864, the Company and its Directors have submitted an application under Section 621A of the Companies Act, 1956 for compounding the offence under Section 292(1)(c) of the Companies Act, 1956. It is also stated that the Company was ordered for inspection under

Section 209A of the Companies Act, 1956 vide Ministry's letter No. F.No.7/345/2012-C:/II dated 13.09.2012.

While inspecting the books and records of the company, the Inspecting officers observed that the Company and its Directors have not complied with the provisions of Section 292(1)(c) of the Companies Act, 1956. Although the matter was taken to DCHL vide letter dated 17.05.2013, the reply of the company was not satisfactory. Accordingly, the Company and its officers rendered themselves liable for action under Section 292(1)(c) of the Companies Act, 1956.

The RoC has also mentioned that a show cause notice No. RAP/209A/DROC(SRD)/CK/DCHL/Sec.292.2014/1148/3 dated 05.08.2014 was issued to the Company and its four directors.

In addition, the RoC report specifies that if a Company fails to comply with the provisions of Section 292, as per Section 629A of the Companies Act, 1956, the company and every officer of the Company who is in default shall be punishable with fine which may extend to five thousand rupees, and where the contravention is a continuing one, with a further fine which may extend to five hundred rupees for every day during which the contravention continues.

6. Though the Applicants have stated that the present Application is filed suo-motu under Section 621A of the Companies Act, 1956 but it is noted that they have come before this Tribunal only after a show cause notice dated 05.08.2014 was issued by RoC. Further, para 9(d) of Form GNL-



1 states that the application is being filed in pursuance to the notice received from RoC.



7. The Applicants have submitted a copy of the Minutes of the Meeting of Board of Directors held on 23.03.2012. resolved that the approval of the Board of Directors be and is hereby accorded for borrow of funds upto Rs.100,00,00,000/- (Rupees one hundred crores only) by way of Inter Corporate Deposits(s) for a term not exceeding 180 days from one or more companies(ies) (hereafter referred to as party/ies) at such rate of interest as may be negotiated and finalised with the party(ies) for tiding over urgent requirement for funds.

The applicants have submitted the aforesaid resolution dated 23.03.2012, but due to inadvertent the said resolution was not incorporated for in the hard copy. It is mere inadvertent and not any wilful violation.

The applicant being a listed company has to take all the required prior approvals as per the applicable provisions of the law. In the instant case contending that the aforesaid resolution dated 23.03.2012 was in soft copy format and not as hard copy. It is difficult to accept the aforesaid contention of the applicants because the physical copy of every Board Minutes have to be signed by the Chairman of the Board, the same has to be registered in the Board books and in general the same is available for inspection of the Directors.

Further, the draft minutes of every Board meeting have to be approved by the Directors and the same would be placed in the next Board Meeting for confirmation of the minutes of the previous meeting. Therefore, the

contention of the applicants that the aforesaid board minutes dated 23.03.2012 was available only in soft copy and not in hard copy is not acceptable.

In view of the above submissions, facts and steps taken to ensure future compliance, we are inclined to compound the applicants with following directions:



- a. We direct the Company to pay Rs.2 lakhs and the other three Directors one lakh each, totalling to Rs.5 lakhs towards compounding fee.
- b. 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.
- c. The Applicants are directed to report compliance of the same to the Registry of NCLT.
- d. Further, the Applicants are warned to be careful in the future and not repeat the violations else serious view will be taken by this Tribunal.

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In terms of above, the CA No. 06/621A/HDB/2016 is disposed of.

Sd/-

RAVIKUMAR DURASAMY

MEMBER (T)

Sd/-

RAJESWARA RAO VITTANALA

MEMBER (J)

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