

**NATIONAL COMPANY LAW TRIBUNAL**  
**PRINCIPAL BENCH**  
**NEW DELHI**

C.P NO. 125(ND)/2016  
CA NO.

**CORAM:**

**PRESENT: CHIEF JUSTICE M. M. KUMAR**  
**Hon'ble President**

**SH. S. K. MOHAPATRA**  
**Hon'ble Member (T)**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF PRINCIPAL BENCH OF THE  
NATIONAL COMPANY LAW TRIBUNAL ON 29.08.2016**

**NAME OF THE COMPANY:** M/s. Skipper Seil Ltd.

**SECTION OF THE COMPANIES ACT: 621 A**

<u>S.NO.</u>	<u>NAME</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
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**ORDER**

This is an application for compounding offence under section 220 of Companies Act 1956 read with Companies(Filling of Documents and Forms in Extensible Business Reporting Language) Rules 2011

2. It has been admitted that while filing Balance sheet and Profit & Loss account for the Financial Year ending 31<sup>st</sup> March 2014 inadvertently the Company has failed to comply the following:-

- (1) Cash flow statement for the financial year ending 31.3.2014 was not enclosed alongwith the audited balance sheet & Profit & Loss account.
- (2) Remuneration of RS. 17.04 Lacs which was paid to Mr Rajendra Singh Grover as Key Managerial Person( as per related party transaction under AS 18 disclosures) was not disclosed under the head of Managerial remuneration of Profit and Loss Account and shown as Nil for the financial year ending 31.3.2014.

3. The applicant however, states that the default has been made good and the required documents have been annexed and filed in the final statement for the year ending 31.3.2015.

4. It is seen that the compounding application was filed on 13.6.2016 i.e. after constitution of National Company Law Tribunal. Nevertheless the relief for compounding has been sought from Company Law Board/Regional Director and not from the Tribunal.



5. It is also an undisputed fact that the total fine in respect of the default in question does not exceed Rs 5 lakhs. The report of Dy Registrar of Companies, NCT Delhi dated 18/5/2016 confirms that the maximum penalty to be imposed in this case as prescribed under section 162 is less than Rs. Five lakhs.

6. Sub section 1 of Section 441 of Companies Act, 2013 envisage as follows:-

*"Notwithstanding anything contained in the Code of Criminal Procedure, 1973(2 of 1974), any offence punishable under this Act( whether committed by a company or any officer thereof) with fine only may either before or after the institution of any prosecution , be compounded by-*

(a) *The Tribunal ; or*


(b) *where the maximum amount of fine which may be imposed for such Offence **does not exceed five lakhs**, the Regional Directors or any officer authorised by the Central Government".....*  
(Emphasis given)

7. It is apparent from the aforesaid provision that with regard to Compounding of an offence, punishable only by a fine and where the maximum fine that may be imposed does not exceed Rupees five lakhs, the power to compound has been given to the Regional Director or any officer authorised by Central Government.

8. Sub section 7 of Section 441 mandates that " *No offence specified in this section shall be compounded except under and in accordance with the provisions of this section*"

9. In view of the above and since the maximum fine that can be imposed in the present case does not exceed rupees five lakhs, the recourse of the remedy lies with a different forum.

10. Accordingly, the application No.CP-125/ND/16 is dismissed without any order as to cost.

  
(CHIEF JUSTICE M.M. KUMAR)  
PRESIDENT

  
(S.K. MOHAPATRA)  
MEMBER (T)