

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) No. 116 of 2017

IN THE MATTER OF:

**M/s. Shree Shrine Engineering & Marketing Company Pvt.
Ltd. Appellant**

Vs.

**The Registrar of Companies, Gujarat, Ahmedabad
... Respondents**

Present: For the Appellant :- Mr. Amitabh, PCS

ORDER

18.04.2017 — The Appellant has challenged order dated 9th February 2017 passed by the National Company Law Tribunal, Ahmedabad Bench, Ahmedabad (hereinafter referred to as Tribunal) in T.P. No. 179/621A/NCLT/Ahm/2016 (new).

By the impugned order, the Tribunal compounded the offence on payment of compounding fee and fine, total of which comes to Rs.3,96,000/- (Rupees three lakh ninety six thousand only).

We have heard the Ld. Counsel of the Appellant and perused the record. Admittedly the company and its directors violated the provisions of Section 166 of the Companies Act, 1956 and defaulted from 30th September 2014 to 29th December 2014 by not holding the Annual General Meeting for the financial year 2013-14, which was to be held on or before 30th September 2014. In a petition preferred by the Appellant under Section 621-A of the Companies Act, 1956, by a detailed reasoned order, the Tribunal compounded the offence (s), relevant portion of which is quoted below:-

“9. Considering the facts and circumstances of the case, this Tribunal is of the view that the said company as well as its three directors shall pay a compounding fee of Rs.10,000/- and pay a fine of Rs.1000/- each for every day's default, for a total period of 89 days i.e., from 30th September, 2014 to 29th December, 2014. The compounding fee, that has to be paid by the said company and its three directors, shall be as follows:-

Rs.10,000 x 4 (Petitioners)	:	Rs. 40,000
Rs.1000 x 4 x 89 days	:	Rs.3,56,000
Total	:	Rs.3,96,000

10. Hence, following the procedure, as contemplated under Section 621-A of the Companies Act, the offence committed under Section 96 of the Companies Act, 2013, by the said company, namely Shree Shrine Engineering & Marketing Co. Pvt. Ltd., and three Directors of the said company, namely (1) Mr Ashok Kumar, (2) Mrs Smriti Srivastava and Mr Amit Kumar, is compounded by this Tribunal on payment of Rs.3,96,000/- by way of demand draft drawn on a nationalized bank in favour of Pay and Accounts Officer, Ministry of Corporate Affairs, Mumbai, within three weeks from the date of this order and the said demand draft shall be filed before the Registry of this Tribunal on or before 1st March, 2017."

Section 168 of the Companies Act, 1956 prescribes penalty for default in complying with Section 166 or Section 167 of the Companies Act, 1956 wherein punishment with fine which may extend to fifty thousand rupees and in the case of a continuing default, with a further fine which may extend to two thousand five hundred rupees for every day after the first during which such default continues. With regard to rupees fifty thousand, the Ld. Tribunal has compounded it to rupees ten thousand for each of the director and for continuing default instead of rupees two thousand five hundred, it has been compounded to rupees one thousand per day per director.

In view of such compounding and in the absence of any illegality in the impugned order dated 9th February 2017, we are not inclined to interfere with the same. We find no merit in this appeal. The appeal is accordingly dismissed. There shall be no order as to cost.

(Justice S.J. Mukhopadhaya)
Chairperson

(Mr. Balvinder Singh)
Member (Technical)