

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI**

**I.A.No. 337 of 2017  
in  
Company Appeal (AT) No.106 of 2017**

**IN THE MATTER OF:**

**Sapphire Industrial Infrastructures Pvt Ltd ...Appellants**

**Vs**

**Registrar of Companies, NCT of Delhi & Haryana. ...Respondents**

**Alongwith I.A.No. 338 of 2017  
in  
Company Appeal (AT) No.107/2017**

**M/s Precious Energy Services Ltd & Ors. ...Appellants**

**Vs**

**Registrar of Companies, NCT of Delhi & Haryana. ...Respondents**

**Present: Ms. Varsha Banerjee, Advocate with Mr. Milan Singh Negi and  
Mr. Kunal Godwani, Advocates for the Appellants.  
Mr. Ripu D Bhardwaj with Mr. T.P. Singh, Advocate for ROC.**

**ORDER**

18.07.2017 These applications under Rule 11 r/w Rule 31 of the National Company Law Appellate Tribunal Rules 2016 have been preferred by appellants pointing out the clerical/typographical errors as taken place in the common order dated 30<sup>th</sup> May 2017 passed by this Appellate Tribunal in these appeals.

Learned counsel appearing on behalf of the appellants submits that the company never violated Section 149 of the Companies Act, 1956, nor any prayer was made for compounding of offence under Section 149 in Company Petitions No. 16/10/2017 out of which Company Appeal(AT) No. 106 of 2017

arises. However, by the order dated 30<sup>th</sup> May 2017, fine have been imposed, for offence punishable under Section 149 of the Companies act, 1956.

Learned counsel appearing on behalf of the appellants further submits that there was a violation of Section 178 of the Companies Act, 1956, for which the application for compounding was filed in the Company Petition No. 16/10/2017 giving rise to Company Appeal (AT) No. 106 of 2017. But by order dated 30<sup>th</sup> May 2017, for alleged violation of Section 177, a fine of Rupees 1,50,000/- (Rs. One Lakh Fifty Thousand only) has been imposed on the three Directors, apart from the company. It is stated that the company has not committed any offence and the violation of Section 178, relate to one Director and three officers i.e. total four officers.

Similarly, in paragraph no. 19, which related to C.P.No. 16/09/2017 out of which Company Appeal (AT) No. 107 of 2017 arises, for violation of Section 177, a fine of Rs. 1,50,000/- (Rs. One Lac Fifty Thousand only) has been imposed on the company and three Directors though the maximum penalty prescribed is Rs. One Lakh.

Learned counsel appearing on behalf of the Registrar of Companies accepts the aforesaid typographical error, and submitted that such error has occurred due to mistake committed by Tribunal while passing the impugned judgement.

It is also submitted that the paragraph 20 of the common order of the judgement dated 30<sup>th</sup> May 2017, the number of Company Petitions have not been properly shown.

Having heard the parties and taking into consideration the aforesaid facts, and in view of the fact that there is an error apparent in the face of the

order dated 30<sup>th</sup> May 2017, in exercise of power conferred by Rule 11 read with Rule 31 of the NCLAT Rules, while we recall the paragraph nos. 18, 19 and 20 of the order dated 30<sup>th</sup> May 2017 passed in Company Appeal(AT)No. 106 of 2017 with Company Appeal (AT) No. 107 of 2017, substitute the following order in place of paragraphs 18, 19 and 20 of the original order: -

*“18. In view of the discussion as made above we pass the following order in Company Appeal (AT) No. 106 of 2017.*

*For violation of Section 178(1) of the Companies Act 1956, we impose a fine of Rs. 5 Lakhs ( Rs. Five lakhs only) on the company and Rs. 1 Lakh (One Lakh each) on one director and three other officers of the company (total four persons) and thereby appellants are liable to pay Rs. 9 Lacs ( Rs. Nine Lacs only) for such alleged violation.*

*19. In so far as Company Appeal(AT) No. 107 of 2017 is concerned the following order is passed:-*

*For alleged violation of Section 177 of the Companies Act, 1956, we impose a fine of Rs. 5 lakhs ( Rs. Five Lakhs only) on the company and Rs. 1 lakh (Rs. One Lakh only) each on one director and two officers i.e. (total three officers) and thereby the appellants are liable to pay another some of Rs. 8 lakhs (Rs. Eight Lakhs only) for alleged violation of Section 177 of the Companies Act, 1956. Thereby, the*

*appellants are liable to pay total sum of Nine Lakhs plus Eight Lakhs i.e. Seventeen Lakhs.*

*20. In view of the aforesaid order, we set aside the impugned common order dated 13<sup>th</sup> February 2017 passed by Tribunal, New Delhi Bench in C.P.No. 16/09/2017 and C.P.No. 16/10/2017.”*

The Interlocutory Application Nos. 337/2017 and 338/2017 both stand disposed of with aforesaid substitution/modification.

(Justice S.J. Mukhopadhaya)  
Chairperson

( Balvinder Singh)  
Member(Technical)

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