

IN THE NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI BENCH-V

C.P No. 134/441/ND/2019

In the Matter of:

M/S ASHWINI KUMAR CONSULTANTS PRIVATE LIMITED

Order Delivered on: 24 .10.2019

CORAM:

JUSTICE (RETD.) RAJESH DAYAL KHARE, HON'BLE MEMBER
(JUDICIAL)

MS. SUMITA PURKAYASTHA, MEMBER (TECHNICAL)

PRESENT- Adv. Vishal Yadav for the Petitioner

ORDER

As per Justice (Retd.) Rajesh Dayal Khare (Member Judicial)

1. This petition has been filed U/S 441 of the Companies Act, 2013 praying for compounding of the offence U/S 96 of the Companies Act. The said petition which has been routed through the office of the ROC along with their comments, prays for compounding the offence for not holding the AGM within the period required under the Statute.
2. As per the provision of Section 96(1) of the Companies Act, 2013:

*“Every company other than a One Person
Company shall in each year hold in addition to
any other meetings, a general meeting as its*



annual general meeting and shall specify the meeting as such in the notices calling it, and not more than fifteen months shall elapse between the date of one annual general meeting of a company and that of the next.”


3. The petitioner's offence relates to the Financial Year 2015-2016. The AGM which should have been held on or before 30th September, 2016 could only be held on 01.11.2018 leading to a delay of 761 days thus violating the provisions of Section 96 of the Companies Act, 2013. The default has since been made good.
4. The aforesaid offence is punishable U/S 99 of the Companies Act, whereby the Company and every officer who is in default is punishable with a fine which may extend to Rs. 1,00,000/- and in the case of continuing default continues with a further fine which may extend to Rs. 5000/- for every day during which the default continues. Accordingly, ROC has recommended the imposition of a compounding fee of **Rs. 39,05,000/-** each on the company and the other applicant.
5. The petitioner has filed this application for compounding, explaining that the delay was not on account of any malafide intentions, but due to lack of quorum to hold AGM. The default was made good since the company conducted its AGM on 01.11.2018.


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6. Given the facts of the case that there is no legal impediment in compounding of this offence, the petitioner/applicants' prayer can be granted. It is submitted that the AGM could not be convened within the statutory period. Considering that the petitioner filed the present application bringing their default to the notice of the authorities, this Bench deems it sufficient to impose a compounding fee as below:-

For	Amount (Rs.)
M/S Ashwini Kumar Consultants Private Limited	Rs. 1,00,000/-
Mrs. Renu Kumar	Rs.1,00,000/-

7. Subject to the remittance of the aforesaid fine, the offence shall stand compounded. For compliance within two weeks.
8. Fine levied on the directors shall be paid out of their personal accounts.
9. Petition stands disposed off in terms of the above.


(Sumita Purkayastha)
Member (T)


(Justice Rajesh Dayal Knare)
Member (J)