

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH - IV**

C.P. No. 22/MB/2024

Under Section **441** of the Companies Act,
2013.

In the matter of

**M/s. Hindustan Thompson Advertising
Limited & Ors.**

[*CIN: U74999MH2019FLC323334*]

...Petitioner(s)

v/s.

Registrar of Companies, Mumbai

...Respondent

Order delivered on: **02.07.2024**

Coram:

Ms. Anu Jagmohan Singh
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances:

For the Applicant : Ms. Heena Jaysinghani (CS), Ld.
Authorized Representative for the
Petitioner. (*Through VC*)

For RoC (Mumbai) : Ms. Rutuja Bankar, ICLS, AROC
Mumbai O/o RoC Mumbai.
(*Through VC*)

ORDER

Defaulters Herein:

- I. M/s. Hindustan Thomson Advertising Limited : Petitioner No. 1
- II. Mr. Shamsuddin Jasani : Petitioner No. 2
- III. Mr. Bhautik Navinchandra Mithani : Petitioner No. 3
- IV. Ms. Jyoti Mahendru : Petitioner No. 4
- V. Ms. Hitasha Hiten Malavia : Petitioner No. 5

Section(s) Violated: Section 96 of the Companies Act, 2013

Punishment Provided Under: Section 99 of the Companies Act, 2019.

1. The present Compounding Petition has been filed by **M/s. Hindustan Thompson Advertising Limited** (“Petitioner No. 1 / Petitioner Company”), which is a public company limited by shares incorporated on 29.03.2019 having its Registered Address at 6th Floor, A Wing. The ORB-Sahar, Village Marol, Andheri (E), Mumbai-400099 (MH), for compounding of offences *u/s.* 441 of the Companies Act, 2013, for non-compliance of section 96 of Companies Act, 2013. The said petition additionally bears Office Bearers (Key Managerial Personnel(S)) and the Whole Time Director of Petitioner Company/ Petitioner No. 1 as the Petitioners, whose details have been encapsulated hereunder:

S. No.	Petitioner No.	Name	Designation	Date of Appointment
01	Petitioner No. 2	Shamsuddin Jasani	CEO & Wholetime Director	01.01.2022
02	Petitioner No. 3	Bhautik Navinchandra Mithani	CFO & Wholetime Director	13.01.2020 & 16.03.2020

03	Petitioner No. 4	Jyoti Mahendru	Wholetime Director	01.10.2022
04	Petitioner No. 5	Hitasha Hiten Malavia	Company Secretary	04.08.2020

2. The Petitioners herein submit that owing to the delay in the audit of its financial records as a result of the demerger process, the Board of Directors of the Petitioner Company conducted its Annual General Meeting (“AGM”) beyond the statutorily mandated period for three consecutive Financial Years viz. F.Y. 2019-20, 2020-21 and 2021-22, in contradistinction to the provisions of Section 96 of the Companies Act, 2013. The said Section has been produced hereunder:

“Section 96

(1) 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:

***Provided that** in case of the first annual general meeting, it shall be held within a period of nine months from the date of closing of the first financial year of the company and in any other case, within a period of six months, from the date of closing of the financial year:*

***Provided further that** if a company holds its first annual general meeting as aforesaid, it shall not be necessary for the company to hold any annual general meeting in the year of its incorporation:*

***Provided also that** the Registrar may, for any special reason, extend the time within which any annual general meeting, other than the first annual general meeting, shall be held, by a period not exceeding three months.*

(2) Every annual general meeting shall be called during business hours, that is, between 9 a.m. and 6 p.m. on any day that is not a National Holiday and shall be held either at the registered office of the company or at some other place within the city, town or village in which the registered office of the company is situate:

¹[Provided that annual general meeting of an unlisted company may be held at any place in India if consent is given in writing or by electronic mode by all the members in advance:

Provided further that the Central Government may exempt any company from the provisions of this sub-section subject to such conditions as it may impose.

Explanation: For the purposes of this sub-section, National Holiday means and includes a day declared as National Holiday by the Central Government.

3. The Petitioners have sought to place reliance on the Order passed by the Regional Director (WR), Ministry of Corporate Affairs, Mumbai dated 29.10.2020 whereby approval was granted to the Petitioner Company “..to follow period of 1st January to 31st December as its Financial Year.” The Petitioners further submit that in light of difficulties at the backdrop of COVID-19 pandemic, they were only able to conduct the AGMs with the extensions as against the delays, in the manner as tabulated hereunder:

Financial Year	AGM Due Date	Extension Received (months)	Extended AGM Due Date	AGM Held on	Adjourned AGM	Delay (days)
April, 2019 to March, 2020	31.12.20	3 (Order dt. 03.12.20)	31.03.21	08.04.22	NA	372
April, 2020 to	30.06.21	Not received	NA	28.09.22	04.11.22	511

December, 2020 (Change in F.Y.)						
January, 2021 to December, 2021	31.06.22	3 (Order dt. 22.08.22)	30.09.22	28.09.22	05.04.23	206

4. The Petitioners further state that the said delays were made good by undertaking compliances in furtherance of holding the requisite AGMs, and thereby pray for a lenient view as “..substantial compliance of Section 96 has been made by convening Annual General Meeting and the members adopting the financial statements for the F.Y. April 2019-March 2020, April 2020-December 2020 and January 2021-December 2021 respectively.”
5. The Petitioner has thus filed the captioned petition for Compounding of Offences u/s. 441 of the Companies Act, 2013, for violation of the afore-stated provision. The Office of the Registrar of Companies Maharashtra, Mumbai (“RoC”) in its Report dated 02.01.2024 has stated that the Petitioners are in violation of Section 96 of the Companies Act, 2013 and the Charging Section attached thereto is Section 99 of the Companies Act, 2013, which is produced hereunder:

“Section 99

The Company and every officer of the company who is in default shall be punishable with fine which may extend to one lakh rupees and in the case of a continuing default, with a further fine which may extend to five thousand rupees for every day during which such default continues.”

6. Per the afore-stated RoC Report *dated* 02.01.2024, the Petitioners along with the Petitioner Company have been held penally liable for the said violation, *u/s.* 99 of the Companies Act, 2013. Further, the RoC has recommended that this Tribunal may “*..consider the application on its merits.*”
7. We have duly considered the application filed by the Petitioners, the Report submitted by the RoC and the submissions made by the Learned Counsel(s) at the time of the hearing. We are of the considered view that:
 - 7.1. Albeit the Petitioners have violated Section 96 of the Companies Act, 2013; The Petitioner Company has duly called and conveyed the requisite AGMs in consonance with the extension(s) granted thereto, and have duly filed the Annual Filing Forms *viz.* AOC-4 and MGT-7, as duly noted in the RoC Report *dated* 02.01.2024 in Entry (16)(D) thereto.
 - 7.2. Having regard to the facts and circumstances of the case, the offence committed *u/s.* 96 of the Companies Act, 2013, as stated and explained above is compounded against the Petitioners, on payment of INR **2,00,000/-** by the Petitioner Company and INR **25,000/-** each by the Petitioners herein *viz.* Mr. Shamsuddin Jasani, Mr. Bhautik Navinchandra Mithani, Ms. Jyoti Mahendru, Ms. Hitasha Hiten Malavia; totalling to INR 3,00,000/- (Indian Rupees Three Lakhs only) and the same shall suffice as a deterrent for not repeating the impugned default in future.
 - 7.3. The imposed remittance as afore-mentioned shall be made to the ‘Bharatkosh’ account by way of Demand Draft drawn in favour of “Pay and Accounts Officer, Ministry of Corporate Affairs, Mumbai” within **30 days** from the receipt of this Order.

8. Accordingly, this Petition bearing C.P. No. 22 of 2024 is, therefore, **Disposed-Of** on the terms directed hereto. Needless to mention, the offence shall stand compounded subject to the remittance of the Compounding Fee imposed. A Compliance Report, therefore, shall be placed on record only thereafter the RoC shall take the consequential action.

Ordered Accordingly.

Sd/-

ANU JAGMOHAN SINGH
MEMBER (TECHNICAL)

02.07.2024

Aditya Kalia

Sd/-

KISHORE VEMULAPALLI
MEMBER (JUDICIAL)
