

**THE NATIONAL COMPANY LAW TRIBUNAL
COURT ROOM NO. 1
MUMBAI BENCH**

CP No.: 58/MB/2023

Under Section 441 of the Companies
Act, 2013.

In the matter of

Opera Hotels Private Limited

158, Dani Corporate Park, CST Road,
Kalina Santacruz (East), Mumbai –
400 098

... Petitioner

v/s

Registrar of Companies, Mumbai,

100, Everest, Marine Lines, Mumbai –
400 020

... Respondent

Order delivered on 11/01/2024

Coram:

Shri Prabhat Kumar
Hon'ble Member (Technical)

Justice Shri V.G. Bisht
Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Petitioner : None Present
For the RoC : Mr. Shivraj C. Ranjeri, Assistant RoC

Per : Coram

ORDER

1) None present for the Petitioner, when the matter was listed on Board (i.e.

on **04.09.2023**). Mr. Shivraj C. Ranjeri, Assistant Registrar of Companies h/f Registrar of Companies was present and the Report filed by them is also available on record. In that view of the matter, we ourselves have perused the Company Petition, in the interest of justice.

- 2) This is a Company Petition filed on 10.03.2023 under Section 441 of Companies Act, 2013 by **Opera Hotels Private Limited** for compounding the default u/s Section 166 of the Companies Act, 1956 and Section 96 of the Companies Act, 2013 committed by the Company and its Directors.

Applicants in Default:

- | | |
|--|--------------------------|
| 1. Opera Hotels Private Limited | - Company |
| 2. Ms. Kirti Dhanpal Bhawsar | - Ex Additional Director |
| 3. Mr. Arrel Herald Furtado | - Director |

Section Violated:

Section 166 of the Companies Act, 1956 and Section 96 of the Companies Act, 2013.

Nature of Violation:

- 3) As per the submission made in the Report of Registrar of Companies, Mumbai and from the submissions made in the Compounding Application, it is observed that Company has not held the Annual General Meeting for

the Financial Years 2010-11 to 2012-13 and 2015-16 to 2016-17 under the provisions of Section 166/96 of the Companies Act, 1956 and 2013 within the prescribed time.

- 4) Pursuant to the provisions of the Section 166 of the Companies Act, 1956, every Company should, once in a year, hold an Annual General Meeting and not more than 15 Months should elapse between the date of one Annual General Meeting and that of the next.
- 5) It is submitted that for the Financial Years ended 31.03.2011 to 31.03.2013, the Annual General Meetings could not be held within the period; since, the Financial Statements of the Company were not audited within the prescribed time limit under the Companies Act, 1956. However, it is submitted that Financial Statements were audited and thereafter, the Annual General Meetings for the said Financial Years were held after a delay of 487 days, 310 days and 143 days respectively.
- 6) Further in accordance with the provisions of Section 96 of the Companies Act, 2013, every Company should, once in a year hold, in addition to other meetings, an Annual General Meeting and not more than 15 Months shall elapse between the date of one Annual General Meeting and that of the next, and a Company may holds its Annual General Meeting within the period of 6 months from closing of its Financial Year. It is submitted that

for the Financial Years ended 31.03.2016 and 31.03.2017, the Annual General Meetings could not be held within the period; since, the Financial Statements of the Company were not audited within the prescribed time limit. However, it is further submitted that Financial Statements were audited and thereafter, the Annual General Meetings for the said Financial Years were held after a delay of 417 days and 265 days respectively.

- 7) However, Registrar of Companies in their Report submitted that Mr. Esam Yusuf Abdulla Abdulkarim Janhi, Mr. Mazin Abdulrahim Alghareeb, Mr. Mohamed Ameen Ahmed Ali Hasan, Mr. Hazem Abdulkarim, Ex-Directors, being officers in default have not applied the Compounding Application for their respective period of Directorship with the Applicant Company. Further, Ms. Kirti Dhanpal Bhawsar, Ex-Additional Director was not a director during the period of offence and hence, she is not liable to punishment; however, she has applied for separate Application in GNL-1, under same SRN. Hence, we are not imposing any cost against the above named Directors.
- 8) The Company has thereby violated the provisions of Section 166 of the Companies Act, 1956 and Section 96 of the Companies Act, 2013.
- 9) The Registrar of Companies, Mumbai forwarded the compounding application vide his letter No. ROC(M)/441/2022/176 and the same is

accompanied to the Company Petition No. 58/441/NCLT/ MB/2023.

10) We have gone through the Petition and the Report submitted by the Registrar of Companies, Mumbai and noted that Petition for compounding of offence committed under Section 96 of the Companies Act, 2013 r/w Section 166 of the Companies Act 1956, merits consideration.

11) Having regard to the facts and circumstances of the case, the offence committed under Section 96 of the Companies Act, 2013, as stated and explained above is compounded against the Petitioners, on payment of fine imposed u/s 168 of Companies Act, 1956 & Section 99 of the Companies Act, 2013 to **Rs. 1,30,000/- by the company and Rs. 65,000/- by Director, Mr. Arrel Herald Furtado**, of the company totalling to Rs. **1,95,000/-** (Rupees One Lakh Ninety Five Thousand only).

12) Further, after taking into consideration the comment of the Registrar of Companies, which is more fully mention in para “7” supra, this Bench compounds an offence against **Mr. Esam Yusuf Abdulla Abdulkarim Janhi, Mr. Mazin Abdulrahim Alghareeb, Mr. Mohamed Ameen Ahmed Ali Hasan, Mr. Hazem Abdulkarim**, being Ex- Directors and officers in default, thereby imposing fine to the extent of **Rs. 35,000/- each**, to meet the logical end of this Compounding Application.

13) Needless to say, the Company shall inform **Mr. Esam Yusuf**

Abdulla Abdulkarim Janhi, Mr. Mazin Abdulrahim Alghareeb, Mr. Mohamed Ameen Ahmed Ali Hasan, Mr. Hazem Abdulkarim, being Ex- Directors and officers in default, to pay the above stated fine, for their respective period of Directorship with the Petitioner No. 1 Company.

14) The remittance shall be made in the **“Bharatkhoosh”** account in favour of **“Pay and Accounts Officer, Ministry of Corporate Affairs, Mumbai”**. **Directors should pay the penalty from their respective personal accounts.**

15) The Registrar of Companies, Mumbai is hereby directed to take further action as provided under Section 621A(3)(c)(d) of the Companies Act, 1956 read with Section 441 (3)(c) (d) of the Companies Act, 2013. The RoC shall give effect of this Order only after perusal of the Compliance report of compounding fine imposed.

16) Accordingly, the Company Petition (C.P.:58(MB)/2023) is hereby **Allowed.**

Sd/-

Prabhat Kumar
Member (Technical)

Vedant Kedare

Sd/-

Justice V.G. Bisht
Member (Judicial)