

NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-II

39. Company Petition/17/2024

CORAM:

SHRI ANIL RAJ CHELLAN
HON'BLE MEMBER (T)

SHRI KULDIP KUMAR KAREER
HON'BLE MEMBER (J)

**ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE
NATIONAL COMPANY LAW TRIBUNAL ON 01.07.2024**

NAME OF THE PARTIES:- Softech Controls Private Limited
V/s
Registrar Of Companies

Section: 441 of the Companies Act, 2013

ORDER

Counsel, Sneha Shukla i/b PCS, Upendra Shukla appeared for the Petitioner through VC. Heard, Counsel for the Petitioner for a considerable time, detail order will follow vide separate order sheet.

Sd/-
ANIL RAJ CHELLAN
Member (Technical)
ANKIT

Sd/-
KULDIP KUMAR KAREER
Member (Judicial)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT - II**

CP No.: 17/MB/2024

Under section 441 of the Companies Act, 2013

In the matter of

Softech Controls Private Limited

CIN: U31909PN2000PTC14803

Having its Registered Office at: - Sr. No.
169/2, Above Central Bank of India, Akurdi,
Pune, - 411035 Maharashtra – 411014

.... Applicant No.1

Mr. Shyam Mohan Sirur

.... Applicant No.2

Mr. Pralhad Namdeorao Hage

...ApplicantNo.3

V/s

REGISTRAR OF COMPANIES,

PUNE, MAHARASHTRA

PCNTDA, Green Building, Block A, 1st and
2nd Floor, Near Akurdi Railway station,
Akurdi, Pune - 411044

.... Respondent

Order delivered on: - 01.07.2024

Coram:

Anil Raj Chellan

Member (Technical)

Kuldip Kumar Kareer

Member (Judicial)

Appearances:

For the Applicant Company: - Counsel Sneha Shukla i/b PCS, Upendra Shukla

For the Respondent: - Mr. Shivraj Ranjeri

Section Violated:

Section 96 of the Companies Act, 2013.

Penalty Provided Under:

Section 99 of the Companies Act, 2013.

ORDER

Per: - Coram

1. This Compounding Application is filed by the Applicants under Section 441 of the Companies Act, 2013 for compounding of the offence committed under Section 99 of the Companies Act, 2013. The Applicant Company has not held its Annual General Meeting within the time stipulated under the provisions of Section 96 of the Companies Act, 2013 for the financial years 2019-20 and 2020-21, thereby committing an offence punishable under Section 99 of the Companies Act, 2013.
2. The Applicant Company was incorporated on 25.04.2000 under the provisions of the Companies Act, 1956 vide CIN:

U31909PN2000PTC014803 as a private company limited by shares within the jurisdiction of the Registrar of Companies, Maharashtra, Mumbai. The Authorised Share Capital of the Company is Rs. 25,00,000 /- (Rupees Twenty-Five Lakh only) divided into 2,50,000 /- (Two Lakh Fifty Thousand) equity shares of Rs. 10 (Ten) each and the paid-up share capital of the company is Rs. 3,11,790/- (Rupees Three Lakh Eleven Thousand Seven Hundred and Ninety only) divided into 31,179/- (Thirty-One Thousand One Hundred and Seventy-Nine) equity shares of Rs. 10 (Ten) each, fully paid up. The Applicant is engaged in the business of manufacturing and supplying electric control panels to the textile industry. The Company had only four employees as of 31.03.2019 which was reduced to zero from FY 2019 onwards.

3. The Applicant submits that the Petitioner Company for FY 2019-20, had a revenue of Rs 40,31,0877/- and a loss of Rs 44,92,726/-. In FY 2020-21, operations were suspended and total revenue was Rs 7,52,378/-. The Petitioner Company incurred a loss of Rs 97,238/-.
4. The Applicant submits that the Covid-19 pandemic and subsequent lockdown from 25.03.2020, worsened the situation, halting manufacturing activities and forcing the Company to adopt a 'work from home' policy, complicating access to documents and compliance. The Ministry of

Corporate Affairs extended deadlines for holding annual general meetings and other compliances due to these challenges till 31.03.2020.

5. However, the Company failed to audit its accounts for the financial year ended 31.03.2020 and hold the 20th Annual General Meeting by 31.12.2020. The accounts were audited on 04.04.2022, and the AGM was held on 28.04.2022, resulting in a delay of 483 days in complying with Section 96 of the Act. Similarly, for the financial year ended 31.03.2021, the Company failed to audit its accounts for the financial year ended 31.03.2021 and hold the 21st Annual General Meeting by November 30 2021. The accounts were audited on 26.07.2022, and the AGM was held on 19.10.2022, resulting in a delay of 314 days in complying with Section 96 of the Act. The Copies of the Notices of the Annual General Meetings and E-Forms filed for the Financial Years ending 2019-2020 and 2020-21 have been annexed to the petition.
6. The Applicants/Defaulters herein have filed Form GNL-1 vide SRN No. F90388661 on 16.01.2024 thereby admitting the violations of Section 96 of the Companies Act, 2013. The RoC has not lodged any prosecution against the Applicants.
7. The details regarding the statutory period, extended due date, the actual date of conducting of AGM and Number of days of delay are as under:

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F.Y	Statutory Due Date of AGM	Extended Due Date of AGM	Actual date of Conducting AGM	No. of days of delay
2019-2020	31.12.2020	-	28.04.2022	482
2020-2021	30.09.2021	30.11.2021	19.10.2022	314

8. The Applicants assert that the breach of section 96 of the Companies Act, 2013, was neither intentional nor malicious, as they were unable to complete the audit timely due to the pandemic. The Company is currently incurring losses and is not conducting any business activities.
9. The Applicants submit that Applicant no.2 and 3 are the directors of the Applicant Company and are deemed to be the principal officers of the Company along with other directors of the Company. Other directors of the Company may submit their petitions separately. The Applicants further declare that they have not made any application for compounding of the offences in the last three years. The Ld. Counsel for the Applicants submits that it is a fit case for grant of relief by compounding the offence.
10. The RoC Mumbai have filed their report/comments. According to the RoC report, the Company and its Directors are found to have violated the provisions of Section 96 of the Companies Act, 2013. The RoC report further states that the Applicant Company committed default in convening AGMs in the F.Y 2019-2020 and 2020-2021. The RoC report

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also states that the offences and defaults in compliance have been made good by the Applicant Company as the AGM for F.Y 2019-2020 and 2020-21 were held on 28.04.2022 and 19.10.2022 respectively. The RoC report states that the offences under Section 96 of the Companies Act, 2013 are compoundable by the Hon'ble NCLT.

11. The RoC, Mumbai in its report dated 28.05.2024 has calculated the penalty leviable for the default that occurred in the financial years 2019-2020 and 2020-2021 –

For Applicant No. 1

<u>F. Y</u>	<u>Fine</u>	<u>Per day</u>	<u>No. of days</u>	<u>Total</u>
2019-2020	Rs.1,00,000	5,000	482	Rs. 25,10,000
2020-2021	Rs.1,00,000	5,000	322	Rs. 17,10,000

For Applicant No. 2

<u>F. Y</u>	<u>Fine</u>	<u>Per day</u>	<u>No. of days</u>	<u>Total</u>
2019-2020	Rs.1,00,000	5,000	482	Rs. 25,10,000
2020-2021	Rs.,1,00,000	5,000	322	Rs. 17,10,000

For Applicant No. 3

<u>F. Y</u>	<u>Fine</u>	<u>Per day</u>	<u>No. of days</u>	<u>Total</u>
2019-2020	Rs.1,00,000	5,000	414	Rs. 21,70,000
2020-2021	Rs.,1,00,000	5,000	80	Rs. 5,00,000

12. This Bench has gone through the pleadings on record and the submissions made by the Representative/Counsel for the Applicants/ Defaulters herein. The Applicants/Defaulters herein have violated Section 96 of the

Companies Act, 2013 and for the said violation, the punishment is provided in Section 99 of the Companies Act, 2013. The extracts of the Sections which are relevant in this case are as follows:

Section 99 of the Companies Act, 2013 applicable w.e.f. 01.06.2016

“Section 99- If any default is made in holding a meeting of the company in accordance with section 96 or section 97 or section 98, or in complying with any directions of the Tribunal, 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.”

13. The Company has filed its Annual Returns and Balance sheet till 31.03.2023 wherein it is shown that the Company has incurred losses to the tune of Rs.3,14,908 /- and turnover of Rs.4,29,754 /-. It is also observed that Applicant No.3 ceased to be the Director of Applicant Company from 18.02.2022. In the above circumstances, we are of the considered view that the Compounding Fee as mentioned in the table below would be adequate and leviable:

For Applicant No. 1

<u>F. Y</u>	<u>Fine</u>	<u>Per day</u>	<u>No. of days</u>	<u>Total</u>
2019-2020	Rs.10,000	100	482	Rs. 58,200
2020-2021	Rs.10,000	100	322	Rs. 42,200

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				Rs. 1,00,400
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For Applicant No. 2

<u>F. Y</u>	<u>Fine</u>	<u>Per day</u>	<u>No. of days</u>	<u>Total</u>
2019-2020	Rs.10,000	100	482	Rs. 58,200
2020-2021	Rs.10,000	100	322	Rs. 42,200
				Rs. 1,00,400

For Applicant No. 3

<u>F. Y</u>	<u>Fine</u>	<u>Per day</u>	<u>No. of days</u>	<u>Total</u>
2019-2020	Rs.10,000	100	414	Rs. 51,400
2020-2021	Rs.10,000	100	80	Rs. 18,000
				Rs. 69,400

14. On examination of the facts and circumstances of this case and given the findings, as discussed above, this Tribunal is of the view that a Compounding Fee of **INR 1,00,400/- (Rupees One Lakh and Four Hundred Only)** each for Applicant No.1 and 2, and **INR 69,400 /- (Rupees Sixty-Nine Thousand Four Hundred Only)** for Applicant No.3, total amounting to **Rs. 2,70,200/- (Rupees Two Lakh Seventy Thousand Two Hundred Only)** shall be sufficient as a deterrent for not repeating the alleged and admitted default in future. The imposed remittance shall be paid by way of the Demand Draft drawn in favour of

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the “Pay and Accounts Office, Ministry of Corporate Affairs, Mumbai” within 30 days from the receipt of this order.

15. This Compounding Application vide Company Petition No. **CP No.: 17/MB/2024** is, therefore, **disposed** of on the terms directed above. 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.
16. The Registry shall send a copy of this order to the Registrar of Companies, Mumbai, Maharashtra.
17. Ordered accordingly. File be consigned to Records.

Sd/-

ANIL RAJ CHELLAN
MEMBER TECHNICAL

Sd/-

KULDIP KUMAR KAREER
MEMBER JUDICIAL