

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

CP No.: 30/MB/2023

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

In the matter of

**ARABIANGULF HOTELS
PRIVATE LIMITED**

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

... **Petitioner**

v/s

**REGISTRAR OF COMPANIES,
MUMBAI, MAHARASHTRA**

100, Everest, Marine Lines, Mumbai –
400 020

... **Respondent**

Order delivered on 19/04/2024

Coram:

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

Hon'ble Member (Technical) SH. Prabhat Kumar

Appearances (via videoconferencing):

For the Petitioner : Chirag Shah & Associates
For the RoC : Mr. Shivraj Ranjeri, AROC, Mumbai

ORDER

- 1) Both sides present and the Report filed by the Respondent is also available on record. In that view of the matter, we have perused the Company Petition.
- 2) This is a Company Petition filed on 09.03.2023 under Section 441 of Companies Act, 2013 by **the Petitioner** for compounding the default u/s Section 96 of the Companies Act, 2013 committed by the Company and its Director.

Applicants in Default:

- i. **Arabian Gulf Hotels Private Limited** - **Company**
- ii. **Arrel Herald Furtado** - **Director**

Section Violated:

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 the Company is engaged in the business of running and maintaining of Hotels & Resorts and pursuant to the provisions of the erstwhile Section 166 of the Companies Act, 1956, the Company was required to hold an Annual General Meeting before 30th September each year. However, the Company convened its Annual General Meetings for the Financial Years ended 31.03.2011, 31.03.2012 and 31.03.2013 and accordingly, there are delays of 487 days, 310 days & 143 days for the Financial Years 2010-11, 2011-12 & 2012-13, respectively.

- 4) Further, pursuant to the provisions of Section 96 of the Companies Act, 2013, the Company convened its Annual General Meeting for the Financial Years ended 31.03.2016 and 31.03.2017 on 20.11.2017 and 21.06.2018 for the Financial Year 2015-16 & 2016-17 and there is delay of 417 days and 265 days, respectively.
- 5) It is further submitted that for the violation of Section 96 of the Companies Act, 2013, a Show Cause Notice has been served to the Applicant by the Ministry of Corporate Affairs *vide* their Email dt. 04.11.2019 for the contravention of Section 96 of the Companies Act, 2013. Applicant has also served with another Notice dt. 28.11.2019, for which, the Company replied to the said Notices and specified therein that it would file an

Application for compounding of Application u/s 441 of the Companies Act, 2013.

- 6) The Board of Directors at their meeting held on 29.07.2021, considered the facts of the said violations under the provisions of Section 96(1) and it was resolved to make an Application u/s 441 of the Act for compounding of the said offences by the Company and Officers in Default.
- 7) The Petitioner submits that the present Petition has not caused any specific harm or injury or financial or other loss to any party including the Company, its directors and investors.
- 8) We have perused the Report filed by the Registrar of Companies. The comment has been made by the Registrar of Companies contending that **Mr. Mazin Abdulrahim Alghareeb, Mr. Mohamed Ameen Ahmed Ali Hasan and Mr. Hazem Abdulkarim** being Ex-directors and officers in default have not applied for compounding of offence for the relevant period of offence. Further **Ms. Kirti Dhanpal Bhawsar, Ex-Additional Director was not a Director during the period of offence and hence is not liable to punishment**; however, she has applied for compounding of offence in a separate Application. The said submissions are noted.
- 9) As per Section 451 of the Companies Act, 2013, *“If a company or an officer of a company commits an offence punishable either with fine or*

with imprisonment and where the same offence is committed for the second or subsequent occasions within a period of three years, then, that company and every officer thereof who is in default shall be punishable with twice the amount of fine for such offence in addition to any imprisonment provided for that offence”.

- 10) The Company has thereby violated the provisions of Section 96 of the Companies Act, 2013.
- 11) The Registrar of Companies, Mumbai forwarded the compounding application vide his letter No. ROC(M)/441/2022/184 dt. 27.06.2022, and the same is accompanied to the Company Petition No. 30/441/NCLT/MB/2023.
- 12) **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, merits consideration.**
- 13) Having regard to the facts and circumstances of the case, the offence committed under Section 166 of the Companies Act, 1956 & 96 of the Companies Act, 2013, as stated and explained above is compounded against Petitioners herein, on payment of the fine imposed to the extent of Rs. 25,000/- to be paid by the Company and to the tune of Rs. 10,000/- to

be paid by Director/Officer of the Company, **Mr. Arrel Herald Furtado**.

No cost has been imposed against **Ms. Kirti Dhanpal Bhawsar**, Ex-Additional Director as she was not a Director during the period of offence.

14) Further, after taking into consideration the comment of the Registrar of Companies, this Bench compounds an offence against **Mr. Mazin Abdulrahim Alghareeb, Mr. Mohamed Ameen Ahmed Ali Hasan and Mr. Hazem Abdulkarim**, being Ex- Directors and officers in default, thereby imposing fine to the extent of Rs. 10,000/- each, to meet the logical end of this Compounding Application.

15) Needless to say, the Company shall inform **Mr. Mazin Abdulrahim Alghareeb, Mr. Mohamed Ameen Ahmed Ali Hasan and 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.

16) 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.**

17) **The Jurisdictional Registrar of Companies** 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.

18) The Jurisdictional Registrar of Companies shall give effect of this Order only after perusal of the Compliance report of compounding fine imposed.

19) Accordingly, the Company Petition bearing CP No. 30/(MB)/2023 is hereby Allowed and Disposed of.

Sd/-
Prabhat Kumar
Member (Technical)

Sd/-
V.G. Bisht
Member (Judicial)

Vedant Kedare