

**THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH : C-I**

Item No. 52

CP No.: 169/MB/2023

Under Section 441 of the Companies
Act, 2013.12

In the matter of

**1. M/s MGM Programming Service
India Private Limited**
Regd. Office at Station Plaza, Unit
No. B/25, Station Road, Bhandup
(W), Mumbai

2. Mr. Robert Mcdonald Stewart
3. Mr. Harold Eugene Gronenthal
4. Mr. Mukesh Chachan

.. Petitioners

v/s

Registrar of Companies, Mumbai
.. Respondent

Order delivered on 13.09.2023

Coram:

Shri Prabhat Kumar
Hon'ble Member (Technical)

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

Appearances (via videoconferencing):

For the Petitioner : None

For the RoC : Mr. Shivraj C. Ranjeri, Assicatan RoC

ORDER

It is a Company Petition filed on 29.03.2023 under Section 441 of Companies Act, 2013 by MGM Programming Service India Private Limited for compounding the default u/s 134 of Companies Act, 2013 r/w Section 217 of the Companies Act, 1956 committed by the Company and its Directors.

Applicants in Default:

1. MGM Programming Service India Private Limited - Company
2. Mr. Robert Dcdonald - Director
3. Mr. Harold Eugene Gronenthal - Director
4. Mr. Mukesh Chachan - Director

Section Violated:

Section 217 of the Companies Act, 1956 and Section 134 of the Companies Act, 2013.

Nature of Violation:

1. 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 Year 2009-2010 to 2016-17 as per the provisions Section 166 of the Companies Act, 1956 r/w Section 96 of the Companies Act, 2013 within the prescribed period resulting in delay in complying with the provisions of Section 217/314 of the Companies Act, 1956/2013.

2. The Applicant submits that the Directors were travelling frequently due to commercial and business reasons. Given that the approval of accounts cannot be considered at a Board meeting held via video conference and owing to the inability of such Directors to be present at the same venue for the requisite tenure in the financial years, the Board meeting could not be held physically within the prescribed timelines to approve the financial statements of the Company. This led to delay in approval of accounts in the Board Meeting and in Annual General Meeting, therefore the AGM could not be convened within the prescribed time specified in the Companies Act, 1956/2013.
3. The Board of Directors of the Company had fixed and then changed the financial year of the Company since its incorporation and pursuant to the Companies Act, financial year of the Company was changed to 1st April to 31st March w.e.f. 18.06.2015.
4. As per the provisions of Section 129(2) and Section 96 of the Companies Act, 2013, the Applicant Company was required to place the Balance Sheet and Statement of profit & loss account at the Annual General Meeting of the Members of the Company and conduct Annual General Meeting within 6 months from the end of the Financial Year. However, the AGM for adoption of Financial Statement for Financial Year 2009-10 to 2016-17 was held as follows:

Financial period	Due date of holding AGM	Actual Date of Holding AGM
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01.10.2009 to 30.09.2010	31.03.2011	17.03.2014
01.10.2010 to 30.09.2011	31.03.2012	22.03.2014
01.10.2011 to 30.09.2012	31.03.2013	26.03.2014
01.10.2012 to 30.09.2013	31.03.2014	20.07.2015
01.10.2013 to 30.09.2014	31.03.2015	28.03.2016
01.10.2014 to 31.03.2015	31.09.2015	28.02.2018
01.04.2015 to 31.03.2016	31.03.2016	10.03.2018
01.04.2015 to 31.03.2017	31.07.2017	21.03.2018

5. The Registrar of Companies, Mumbai forwarded the compounding application vide his letter No. ROC/441/KA/2023/08 dated 20.03.2023 and the same is accompanied to the Company Petition No. 169/441/NCLT/MB/2023.
5. We have gone through the Petition of the Petitioners and the report submitted by the Registrar of Companies, Mumbai and also the submissions made by the Ld. Counsel for the Petitioners at the time of hearing and noted that petition made by the petitioners for compounding of offence committed under Section 96 of the Companies Act, 2013 r/w Section 166 of the Companies Act 1956, merits consideration.
7. 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 in first para is compounded against the Petitioners, on payment of fine imposed u/s 134(8) r/w Sec 451 of the Companies Act,

2013 to Rs.2,00,000/- by the company and Rs.50,000/- each by Directors of the company totaling to Rs.**3,50,000/-** (Rupees Three Lakh Fifty Thousand only). The remittance shall be made to the “Bharatkhoosh” account in favour of “Pay and Accounts Officer, Ministry of Corporate Affairs, Mumbai”. The directors should pay the penalty from their respective personal accounts. 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.

5. Accordingly, the Company Petition (C.P.:169(MB)/2023) is hereby **allowed**.

Sd/-

Prabhat Kumar
Member (Technical)

Sd/-

Justice V.G. Bisht
Member (Judicial)