

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

CP No.: 3218/MB/2019

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

In the matter of

**Smooth Line Writing Instruments
Private Limited**

607, 6th Floor, Neelkanth Corporate
Park Kirol Road, Vidyavihar (W),
Mumbai 400 086

... Petitioner No. 1

**Mr. Manish Babulal Shah,
Managing Director of Petitioner
No. 1**

B/1107, Shankheshwar Tower,
Shanti Sudha Path, Jain Temple,
Garodia Nagar, Ghatkopar (E),
Mumbai – 400 077

... Petitioner No. 2

v/s

**Registrar of Companies, Mumbai,
Maharashtra**

Everest Building, 100, Marine Drive,
Mumbai 400 002

... 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 : Mr. Avinash Khanolkar, Advocate
a/w Ms. Surekha Yadav, Advocate

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 10.10.2023 under Section 441 of Companies Act, 2013 by **Petitioners** for compounding the default u/s Section 135 r/w 134(3)(o) committed by the Company and its Directors.

Applicants in Default:

1. **Smooth Line Writing Instruments Private Limited** - **Company**
2. **Falgun Babulal Shah** - **Director**
3. **Manish Babulal Shah** - **Managing Director**
4. **Swetal Manish Shah** - **Director**

Section Violated:

Section 135(2) and 135(5) r/w 134(3)(o) 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 object of the Company is to carry on business of buying, selling, importing, exporting, manufacturing stockiest and dealings in pen, Pencils, Ball Pen, Refill all types of ink and other writing instruments of whatsoever nature.
- 4) Further, the Companies Act, 2013 introduced Section 135 on Corporate Social Responsibility (hereinafter referred to as "CSR") wherein every Company having Net Worth of Rupees Five Hundred Crore or more' or turnover of Rupees One Thousand Crore or more or a Net Profit of Rupees Five Crore or more during any Financial Year shall constitute a CSR Committee and that shall ensure that the Company spends, in every Financial Year, at least two per cent of the Average Net profits of the Company made during the three immediately preceding Financial Years, in pursuance of its CSR Policy.
- 5) It is further submitted that the Applicant had received notice u/s 206(1) of the Companies Act, 2013 dt. 23.05.2016 stating the eligibility of the

Applicant Company for not carrying out Corporate Social Responsibility for the Financial Year 2014-2015 and calling for information for the same.

- 6) Pursuant to Section 135 of the Companies Act, 2013 r/w Rules thereon, the Company was required to spend an amount to the tune of Rs. 14,44,180.28, which is 2% of average net profit before tax for the year 2011-12, 2012-13 and 2013-14 towards CSR activities in the F.Y. 2014-15. However, since, the CSR activity projects were yet to be identified by the management, no CSR expenditure was incurred by the Company during the F.Y. 2014-15. Further, pursuant to Section 134(3)(o) r/w the second proviso of Section 135(5) of the Companies Act, 2013, the Company had also failed to provide the disclosures in the Directors Report for the Financial Years 2014-15 and 2015-16.
- 7) It is submitted that the Company has spent amount of Rs. 63,66,788/- on CSR in the Financial Year 2016-2017 and an amount to the tune of Rs. 41,25,000/- on CSR in the Financial Year 2017-18.
- 8) The Petitioners submit that they have not intentionally, deliberately and willfully violated their obligations under Section 135 read with Section 134(3)(o). Furthermore, there was neither any dubious nor malicious intent of the petitioners with respect to the payment for CSR.
- 9) Hence, this Compounding Petition is being filed.

- 10) We have perused the Report filed by the Registrar of Companies and the Comments of the Registrar of Companies stating that the offence may be considered for compounding.
- 11) The Company has thereby violated the provisions of Section 135(2) and 135(5) r/w 134(3)(o) of the Companies Act, 2013.
- 12) The Registrar of Companies, Mumbai forwarded the compounding application vide his letter No. ROC/441/KA/2023 dt. NIL, and the same is accompanied to the Company Petition No. 3218/441/NCLT/ MB/2019.
- 13) 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 135(2) and 135(5) r/w 134(3)(o) of the Companies Act, 2013, merits consideration.
- 14) Having regard to the facts and circumstances of the case, the offence committed under Section 135(2) and 135(5) r/w 134(3)(o) of the Companies Act, 2013, as stated and explained above is compounded against Petitioners herein, on payment of fine to the tune of Rs. 50,000/- to be paid by the Company and to the tune of Rs. 15,000/- each to be paid by Directors/Officers of the Company.
- 15) 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.

16) 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.

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

18) Accordingly, the Company Petition bearing CP No. 3218/(MB)/2019 is hereby Allowed.

Sd/-
Prabhat Kumar
Member (Technical)

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

Vedant Kedare