

IN THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL

NEW DELHI

Company Appeal (AT) No. 20 of 2016

**Sreepathi OPharmaceuticals
Ltd. & Ors.**

....Appellants

Vs.

**Registrar of Companies, Andhra Pradesh
And Telangana**

....Respondents

03.11.2016

Present: Mr. Deepak Agarwal, Advocate for the Appellant.

The appellants violated mandate of Section 297 of the Companies Act 1956 for years together for which maximum amount of fine levied on the company and offending officer to an extent of Rs. 5000/- each and the contravention being continuing one they are liable to pay further fine of Rs. 500/- for every day. Having noticed the aforesaid facts for the financial year 2009 to 2014, the Tribunal observed as follows:-

“9. We are of the view that prior approval sought to be obtained at various stages or authorities is inter-alia with an object to safeguard the interest of various stakeholders viz shareholders, creditors, suppliers, etc and also to bring in transparency in the corporate dealings with respect to related party transactions. Section 297 of the Companies Act, 1956 embodies the principles of good faith and fiduciary relationship of a director and enjoins upon him certain statutory obligations.

It was held in *Vinod Kumar Jain v Registrar of Companies* (1987) 2 Comp LJ 188 (Del) that the object of this section is that the Board of

law. In terms of above, the present Company Application is disposed off accordingly.”

2. Section 621-A of the Companies Act 1956 relates to Composition of certain offences relevant portion of which reads as under:-

“Sec 621A - Composition of certain offences.

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence punishable under this Act (whether committed by a company or any officer thereof), not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may, either before or after the institution of any prosecution, be compounded by

(a) the Company Law Board ; or

(b) where the maximum amount of fine which may be imposed for such offence does not exceed fifty thousand rupees, by the Regional Director,

on payment or credit, by the company or the officer, as the case may be, to the Central Government of such sum as that Board or the Regional Director, as the case may be, may specify :

Provided that the sum so specified shall not, in any case, exceed the maximum amount of the fine which may be imposed for the offence so compounded :

Provided further that in specifying the sum required to be paid or credited for the compounding of an offence under the sub-section, the sum, if any, paid by way of additional fee under sub-section (2) of section 611 shall be taken into account.

(2) Nothing in sub-section (1) shall apply to an offence committed by a company or its officer within a period of three years from the date on which a similar offence committed by it or him was compounded under this section.

Explanation.: For the purpose of this section,

(a) any second or subsequent offence committed after the expiry of a period of three years from the date on which the offence was previously compounded, shall be deemed to be a first offence.

(b) " Regional Director" means a person appointed by the Central Government as a Regional Director for the purposes of this Act."

3. In view of the aforesaid provision if the Tribunal has asked the appellant to approach the Board and the Central Government for approval of each of the related party's transaction which took place during the financial year 2009 to 2014 with liberty to the appellant to approach the Tribunal subsequent in accordance with law, we find no reason to interfere with the impugned order.

4. If no order is passed by the Central Government or its Officers, it will be open to the appellant to approach the Tribunal for same relief.

5. The Company Appeal stands disposed of with the aforesaid observations.

(Justice S.J.Mukhopadhaya)
Chairperson

(Mr. Balvinder Singh)
Member (Technical)