

**IN THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL
COMPANY APPELLATE JURISDICTION**

Company Appeal (AT) No. 54 of 2016

**(arising out of Order dated 7th November 2016 passed by NCLT, New Delhi
in C.A.No. 16/191/14)**

Tarun Goyal

.....Appellant

Vs.

**Registrar of Companies, NCT of Delhi &
Haryana**

.....Respondent

Present: For Appellants: Shri Abhay K.Das, Advocate

**For Respondent No. 1: Shri Vijay Chandra Joshi, Senior
Panel Counsel**

For Respondent No. 2: Shri R.K.Pillai, Advocate

J U D G E M E N T

SUDHANSU JYOTI MUKHOPADHAYA,J.

The appellant filed petition under Section 621-A of the Companies Act 1956 (hereinafter referred to as the 'Act 1956') for composition of offence for violation of Sections 63 and 68 of the Companies Act 1956. The application was opposed by Securities Exchange Board of India (hereinafter referred to as 'SEBI') due to various complaints against the company and others. The main allegation against the appellant and others is that they colluded in aiding and abetting and furnishing false information in the Company's prospectus dated 2nd July 1996.

2. The Tribunal by its impugned judgement, dated 7th November 2016 dismissed the application with following observation: -

“5. Though the aforesaid submissions of SEBI have not been corroborated before this forum, being allegedly grave, wilful and criminal in nature, compounding cannot be permitted. Such indulgence would scuttle the prosecution which is pending in courts and would also be a deterrent to the vigilance exercised by SEBI to safeguard the interests of investors. The petitioner of course has denied all these allegations. He is already before a Court in which he can disprove the allegations against him. As prima facie action of the petitioner appears to be wilful and deliberate it would not be appropriate for this Bench to compound the offence.

6. Application u/s 621-A of the Companies Act dismissed.”

3. Learned counsel for the SEBI submitted that amongst the various mis-statements made in the prospectus of M/s Zed Investment Ltd., one of the grievous allegation is that the alleged directors, namely Sh. Zile Singh, Sh. Neeraj and Sh. Anil Kumar shown in the prospectus are non-existent persons and their addresses given are false. The registered office of the company does not exist at the address furnished in the prospectus. The entire exercise of incorporating the company and floating the public issue was the brain child of the applicant and some others. The lead manager had wilfully furnished false and incorrect information and certified that due diligence was carried

out for the purpose of obtaining permission from SEBI to go public. As a lead manager it was incumbent on the appellant to ensure that all the disclosures were true and accurate. Further, the appellant was also a signatory to the bank account opened and has aided and abetted the company in inducing the public into investing money which was siphoned off and diverted to his other companies, leaving the helpless investors to face the woes of being duped.

4. It is also submitted that the compounding application was preferred by the appellant after more than 14 years from the date of Complaint No. 54/05/09 titled as "Securities and Exchange Board of India Vs. Shri Tarun Goyal & Ors." for violation of Section 63 and 68 of the Companies Act 1956. It is also alleged that the present appeal has been preferred with an attempt to delay the proceedings.

5. It was further submitted that the appellant in conspiracy with others raised money from the public by way of public issue by making false and misleading statements in the prospectus of different companies viz M/s Kalyani Finance Ltd., M/s Zed Investment Pvt. Ltd. and M/s Gradiente Infotainment Ltd. The appellant is also involved in other cases of grievous nature registered with the Lajpat Nagar Police Station which has been transferred to CBI for investigation and Economic Offence Wing-I in R.C.No. 4(E)/97-EOW-I/Delhi.

6. Vide order dated 7th January 2011, the appellant was acquitted in CBI case No. 21/06 but according to the respondents(SEBI), the instant case cannot be seen in isolation as a routine mistake.

7. According to Learned counsel for the appellant in spite of pendency of criminal cases or investigation, the Tribunal has power to compound offence under Section 621-A of Act 1956 (now Section 441 of Companies Act 2013). However, no ground has been shown as to why the application for compounding was filed after 14 years of lodging of criminal case.
8. We find no merit in this appeal. It is accordingly dismissed.

Mr. Balvinder Singh)
Member (Technical)

(Justice S.J. Mukhopadhaya)
Chairperson

NEW DELHI
March, 2016

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