

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL,**  
**NEW DELHI**

**Company Appeal (AT) No. 117 of 2017**

**IN THE MATTER OF:**

**M/s. Shree Shrine Engineering & Marketing Company  
Pvt. Ltd. .... Appellant**

**Vs.**

**The Registrar of Companies, Gujarat, Ahmedabad**

**Respondent**

**Present: For the Appellant: - Mr Amitabh, PCS**

**For Respondent: - Shri Sanjib K Mohanty,  
Senior Panel Government Counsel**

**ORDER**

21.07.2017 – This appeal has been preferred against order dated 9<sup>th</sup> February 2017 passed by National Company Law Tribunal (hereinafter referred to as Tribunal) Ahmedabad Bench, Ahmedabad in New TP no.178/621A/NCLT/Ahm/2016 and Old C.A. No. 214/621A/CLB/MB/2015. By the impugned order, the Tribunal exercising its power under section 621 A of the Companies Act, 1956 compounded the offence alleged to have been committed under sub-Section (2) of Section 129 of Companies Act, 2013 by imposing a fine of Rs.1 lac on Mr Ashok Kumar, Director of the Appellant company.

Ld. PCS appearing for the Appellant submitted that another application for compounding was filed under section 621A of the Companies Act, 1956 wherein the Tribunal by order dated 9<sup>th</sup> February, 2017 compounded the offence for violation of Section 166 of the Companies Act, 1956 which was punishable under Section 168 of the Companies Act, 1956. In the said case, the

Tribunal taking into consideration the period of violation, compounded the offence by imposing fine. In fact, aforesaid petition was not correctly filed and therefore by way of caution, second petition was filed bringing to the notice of the Tribunal that it was for the violation of Section 129 of the Companies Act, 2013 which came into effect from 1<sup>st</sup> April 2014, thereby a suggestion was made that subsequent petition by way of amendment to the earlier one was filed and therefore the compounding cannot be made twice. Such submission cannot be accepted as it is apparent from the record that a separate application was preferred by Appellant under Section 621A for compounding of offences for violation of Section 129 of the Companies Act, 2013. It is also accepted by Ld. Counsel appearing on behalf of the Registrar of Companies, Gujarat, Ahmedabad.

From the impugned order, we find that penal action prescribed under sub-section (7) of Section 129 having been noticed by Ld. Tribunal which provides for imprisonment for a term which may extend to one year or with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees or with both (imprisonment and fine).

In such circumstances, if the Tribunal compounded the offence by imposition of fine of rupees one lac, qua Mr Ashok Kumar, Director of the Appellant company, we find no reason to interfere with the impugned order. In the absence of any merit, the appeal is dismissed. However, in the fact and circumstances, there shall be no order as to cost.

(Justice S.J. Mukhopadhaya)  
Chairperson

(Mr. Balvinder Singh)  
Member (Technical)