

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) No. 45 of 2018
Company Appeal (AT) No. 46 of 2018
Company Appeal (AT) No. 47 of 2018
Company Appeal (AT) No. 48 of 2018

IN THE MATTER OF:

United News of India & Ors.

...Appellants

Versus

RoC

NCT of Delhi & Haryana

...Respondent

Present:

For Appellants : Ms. Manisha Gupta, Company Secretary

O R D E R

15.02.2018 These appeals have been preferred by the appellant(s) – United News of India along with two others against the order(s) dated 11th December and 12th December, 2017 passed by the National Company Law Tribunal (hereinafter referred to as the ‘Tribunal’), New Delhi Bench whereby and whereunder the application for compounding of offence under Section 210/129 of the Companies Act, 1956, Sections 213,137,96, 166 and 92 of the Companies Act, 2013 has been compounded and the amount has been brought down to 1/4th or 1/5th of the penal amount approximately.

The aforesaid fact is evident from the relevant portion of the observations made by the Tribunal, as quoted below:

Company Appeal (AT) No. 45 of 2018

- “4. The fine for the aforesaid lapse is provided under Section 129(7) of the Companies Act, 2013 and Section 210(5) of the 1956 Act and in terms thereof attracts punishment for a term of imprisonment or fine or both. Accordingly, the RoC has recommended the fine as follows:-

Name of the Applicant	Fine u/s 210 for the F.Y.2012-2013	Fine u/s 129 for the F.Y. 2014-2015
United News of India	10,000/-	5,00,000/-
Vishwas Tripathi	10,000/-	5,00,000/-
Prafulla Maheshwari	10,000/-	5,00,000/-

5. It is submitted that no prosecution has been initiated and the applicants have suomoto prayed for compounding the default in timely adherence to the Statutory provisions. As the default has been made good, therefore, there is no legal impediment in granting the prayer of the petitioners for composition of the offence. In terms of the guidelines laid down by the Hon’ble NCLAT, and after considering various facts like the period of default, gravity of offence etc. this Bench deems it just and equitable to impose a fine of **Rs.1,10,000/-** on the company and on each of the other petitioners, as a composite fine for the two years of default.”

Company Appeal (AT) No. 46 of 2018

- “4. The fine for the aforesaid lapse is provided under Section 137(3) of the Companies Act, 2013 and in terms thereof attracts punishment for a term of imprisonment or fine or both. Accordingly, the RoC has recommended the fine of **Rs. 1,32,000/-** on the company and **Rs 5,00,000/-** on each of its two Directors.
5. It is submitted that no prosecution has been initiated and the applicants have suomoto prayed for compounding the default in timely adherence to the Statutory provisions. As the default has been made good, therefore, there is no legal impediment in granting the prayer of the petitioners for composition of the offence. In terms of the guidelines laid down by the Hon’ble NCLAT, and after considering various factors like the period of default, gravity of offence, casacading effect of not holding the AGM on time for which the applicants have already been penalized, etc. this Bench deems it just and equitable to impose a fine of **Rs.1.25 Lakhs** on the company and on each of the other petitioners, as a composite fine for the two years of default.”

Company Appeal (AT) No. 47 of 2018

- “4. The fine for the aforesaid lapse is provided under Section 99 of the Companies Act, 2013 and Section 168 of the 1956 Act and in terms thereof attracts punishment for a term of imprisonment or fine or both. Accordingly, the RoC has recommended the fine as follows:-

Name of the Applicant	Fine u/s 168 for the F.Y. 2012-2013	Fine u/s 96 for the F.Y. 2014-2015

Company Appeal (AT) No. 45 to 48 of 2018

<i>United News of India</i>	62,500/-	7,05,000/-
<i>Vishwas Tripathi</i>	62,500/-	7,05,000/-
<i>Prafulla Maheshwari</i>	62,500/-	3,25,000/-

5. *It is submitted that no prosecution has been initiated and the applicants have suomoto prayed for compounding the default in timely adherence to the Statutory provisions. As the default has been made good, therefore, there is no legal impediment in granting the prayer of the petitioners for composition of the offence. In terms of the guidelines laid down by the Hon'ble NCLAT, and after considering various facts like the period of default, gravity of offence etc. this Bench deems it just and equitable to impose a composite fine for the 2 years as **Rs. 2 Lakhs** on the company and applicant no. 2 Shri Vishwas Tripathi. Fine imposed on applicant no. 3 shall be **Rs. 1.5 Lakhs.**"*

Company Appeal (AT) No. 48 of 2018

- “3. *The fine for the aforesaid lapse is provided under Section 92(5) of the Companies Act, 2013 and in terms thereof attracts punishment for a term of imprisonment or fine or both.*
4. *It is submitted that no prosecution has been initiated and the applicants have the suomoto prayed for compounding the default in timely adherence to the Statutory provisions. As the default has been made good, therefore, there is no legal impediment in granting the prayer of the petitioners for composition of the offence. In terms of the guidelines laid down by the Hon'ble NCLAT, and after considering various factors like the period of default, gravity of offence, penalty*

*already imposed for delayed AGM etc. this Bench deems it just and equitable to impose a fine of **Rs.1,25,000/-** on the company and on each of the petitioners, as a composite fine for the two years of default.*

5. *Fine imposed on the Directors/officers shall be paid out of their personal accounts.”*

Heard the Company Secretary for the appellant(s) on the petition for condonation of delay and being satisfied with the grounds the delay in preferring the appeal(s) are condoned.

Insofar as the impugned order(s) are concerned, learned counsel for the appellant(s) submits that the company is not in a position to pay the amount but that cannot be a ground to hold that the impugned order(s) are illegal. In fact, we find that the Tribunal has already brought down the penalty to 1/4th or 1/5th of the total penal amount as prescribed under the law.

We find no merit in these appeal(s). They are accordingly dismissed. No costs.

[Justice S.J. Mukhopadhaya]
Chairperson

/ns/uk