



Case: M/s MVM Metal and Alloys Private Limited

Facts of the case:

The Petitioner Company has incorporated on 29.05.2007, and has filed the present compounding application having been charged with the offence under section 220 of the companies act 1956. The attached financials which were filed by the Company for the Financial Year 2011-12 in e-form were not legible and therefore not accepted by ROC. Hence the financials were not taken on record, and thus attracted violation of Section 162 of Companies Act, 1956.

Thereafter, the Directors of the Company filed the same in year 2013 and the ROC took the date of filing the hard copy as the date of Compliance and accordingly the Compounding fees was recommended by the ROC a maximum fine of Rs. 5,83,500/- to NCLT for the levy of Compounding Fees up to the date of filing of those Financials (03.12.2013).

Observation & Conclusion:

Section 162 in The Companies Act, 1956

162. Penalty and interpretation.

(1) If a company fails to comply with any of the provisions contained in section 159, 160 or 161, the company, and every officer of the company who is in default, shall be punishable with fine which may extend to five hundred rupees for every day during which the default continues.

(2) For the purposes of this section and sections 159, 160, and 161, the expressions "officer" and "director" shall include any person in accordance with whose directions or instructions the Board of directors of the Company is accustomed to act. General provisions regarding registers and returns.

Given the facts of the above case and as mentioned in Section 162 of the companies act, 1956 it was submitted by the petitioners that the noncompliance was totally unintentional and without any malafide intention, on account of bad quality of scanning. On being put to notice, physical copies were submitted in the office of the ROC.

There is no impediment in compounding the offence and the fact that the default appears to be unintentional, it would be sufficient to impose a fine of Rs. 50,000/- on each petitioner i.e. Three directors and the company totalling to 2,00,000/-.

Hence by the above facts we can conclude that there is no default by the company in complying with the provisions of Section 159, 160, and 161.