

SPECIAL EDITION

YEARLY UPDATES ON NCLT ORDERS

Edition No.01 January 01, 2023 to November 30, 2023

YEARLY UPDATES ON NCLT ORDERS ON COMPOUNDING OF OFFENCES FOR THE YEAR 2023

PRAGYA (NCLT) SPOTLIGHT

- 1) Mumbai NCLT has imposed the Highest number of orders during the year 2023 from January - November – i.e 10 orders, followed by Bengaluru, New Delhi with 7 orders each and Chandigarh with 4 orders, Amaravati with 2 orders and Hyderabad and Guwahati with 1 order each.
- 2) The **highest number of orders** have been imposed for violation of **Section 96 r/w 441 and 137** of the Companies Act, 2013 i.e. Failure to file conduct Annual General Meeting and financial statements with registrar for the Company.
- 3) Mumbai NCLT and Delhi NCLT ordered one order each for the violation of **Section 165** i.e., Directors holding directorship with more than 20 Private companies.
- 4) Bengaluru NCLT and Chandigarh NCLT issued 3 orders in total for the violation of **Section 92** i.e., Failure to file Annual returns
- 5) Mumbai and Bengaluru NCLT imposed 3 orders in total for the violation of **section 134** i.e., Failure to file financial statements
- 6) Bengaluru NCLT has imposed one order for the violation of **section 215**, i.e., Failure to authenticate Balance Sheet
- 7) Bengaluru NCLT has imposed one order for the violation of **section 252** i.e., Failure to maintain a minimum number of directors
- 8) Chandigarh NCLT has imposed one order for the violation of **section 173** r/w 441 i.e., failure to convene board meetings
- 9) Amaravati and Mumbai Bench imposed one order each for the violation of **section 67** i.e., Restriction on company for the purchase of shares
- 10) Bengaluru NCLT imposed one order for the violation of **section 166** i.e., failure to follow the duty of the director
- 11) Chandigarh Bench imposed one order under violation of **section 117** i.e., failure to file E-form

- 12) New Delhi NCLT has imposed an order for the violation under **section 441** i.e., Company did not file application for compounding the offences to registrar
- 13) Certain cases were decided by the tribunals following the repealed sections where the punishment was imposed as a fine instead of a penalty as there shall be no retrospective effect on the Companies Act.

ORDERS OF THE NCLT DURING THE YEAR OF 2023 JANUARY TO NOVEMBER 2023

Non filing of Annual return as prescribed u/s 92				
SL. NO	NCLT JURISDICTION AND NUMBER OF ORDERS PASSED	ORDER PASSED AGAINST AND AMOUNT OF FINE	NATURE OF NON-COMPLIANCE	OTHER RELEVANT POINTS, IF ANY
1	BENGALURU- 2	Maximum fine on Company Rs.39,85,225/- Maximum fine on Directors Rs.5,00,000	Failure to file Annual return	In all these instances, the Company did not file the Annual returns and balance sheets also for various years
2	CHANDIGARH -1	On company – 2,00,000 On Directors – 50,000 each	Failure to file Annual return	In this instance, the company failed to file annual statements and returns due to disputes between members of the company. Hence, the company also could not conduct any meetings of the Board of Directors and the company failed to carry

out various corporate actions including statutory compliances.

Non filing of Financials as prescribed u/s 137

SL. NO	NCLT JURISDICTION AND NO. OF ORDERS PASSED	ORDER PASSED AGAINST AND AMOUNT OF FINE	NATURE OF NON-COMPLIANCE	OTHER RELEVANT POINTS, IF ANY
1	NEW DELHI- 2	Maximum fine on Company Rs.53,06,000/- Maximum fine on Directors Rs.28,17,500/-		In all these instances, the Company did not file the financial statements due to various reasons.
2	MUMBAI-1	On company – 10,94,500 On Directors – 2,00,000 each	Failure to file Financial statements with the registrar and annual returns	In this instance, the company delayed in filing the adoption of financial statements by the members due to certain changes in the management and vacancies in some of the key positions for a reasonable period of time and the shareholders of the company had not raised any objection in this regard
3	BENGALURU – 1	On company – 1,66,000 On Directors – 83,000		In this instance, the company was also on default to hold AGM along with default in filing the annual returns and vide their

Board resolution, suo-moto filed this petition for compounding their defaults

NON-COMPLIANCE UNDER SECTION 96 r/w 441

SL. NO	NCLT JURISDICTION AND NO. OF ORDERS PASSED	ORDER PASSED AGAINST AND AMOUNT OF FINE	NATURE OF NON-COMPLIANCE	OTHER RELEVANT POINTS, IF ANY
1	BENGALURU - 4	On Company Rs.3,985,225/- On Directors Rs.1,91,000/-	Failure to conduct AGM	In this instance, the NCLT has levied fine on company and directors as the company failed to conduct Annual General Meeting on time due to various disputes between the management and shareholders etc.. In few cases, the tribunal followed the sections that were enacted before the recent amendments as it does not take retrospective effect.
2	MUMBAI - 7	On company – Rs.10,94,500 On Directors- Rs. 2L each		
3	NEW DELHI - 4	On company – 17,845,000 On Directors – 17,845,000		
4	CHANDIGARH – 1	For 1st year: On company – 7,03,000 On Directors – 7,03,000 each For 2nd year: On company – 3,45,000		

		On Directors – 3,45,000 each		the meeting and so the company failed to meet the statutory compliances.
5	GUWAHATI – 1	On Company –44,75,000 On Directors – 15,85,000		In this instance, the company failed to conduct the Annual General Meeting even after acquiring an extension period from the registrar to conduct the meeting.
6	HYDERABAD-1	On Company – 50,000 On Directors – 50,000 each		In this instance, the company failed to conduct AGM for two years.
7	AMARAVATI – 1	On Company – 30,20,000 On 1 st Director – 30,20,000 On 2 nd Director – 2,40,000	Failure to conduct AGM	In this instance, the company did not conduct AGM for 3 years and there was no business activity in the company subsequently due to the death of the promoter.

NON-COMPLIANCE UNDER SECTION 165

SL. NO	NCLT JURISDICTION AND NO. OF ORDERS PASSED	ORDER PASSED AGAINST AND AMOUNT OF FINE	NATURE OF NON-COMPLIANCE	OTHER RELEVANT POINTS, IF ANY
1	MUMBAI-1	On Director – 2,00,000	Holding directorship with more than 20 companies	In these instances, the directors were holding directorship in more than private 20 companies which is a violation under

				section 165 of CA,2013 and levied compound fee for the said offence.
2	NEW DELHI – 1	No fine levied		In this instance, the company was not aware of decriminalisation of this section hence the tribunal dismissed the application.

NON-COMPLIANCE UNDER SECTION 134

SL. NO	NCLT JURISDICTION AND NO. OF ORDERS PASSED	ORDER PASSED AGAINST AND AMOUNT OF FINE	NATURE OF NON-COMPLIANCE	OTHER RELEVANT POINTS, IF ANY
1	MUMBAI-2	Maximum fine on Company – Rs. 10,94,500/- Maximum fine on directors – Rs. 2,00,000 each	Failure to file financial statements	In all these instances, the offences have taken place before decriminalisation of offences. Consequently, orders have been passed based on the penal provisions as prevalent at that point in time (prior to decriminalisation), viz., prior to the 2020 Amendment.
2	BENGALURU-1	On Company – Rs. 2,78,500 On Director – Rs. 2,78,500 each		

NON-COMPLIANCE UNDER SECTION 215

SL. NO	NCLT JURISDICTION AND NO. OF ORDERS PASSED	ORDER PASSED AGAINST AND AMOUNT OF FINE	NATURE OF NON-COMPLIANCE	OTHER RELEVANT POINTS, IF ANY

1	BENGALURU – 1	On Company – Rs. 2,78,500 On Director – Rs. 2,78,500	Failure to authenticate accounts	The company failed to comply with various provision and one of them was a failure to duly authenticate the Balance sheet and P&L A/c by a minimum of two directors. This Section 215 comes under the 1956 Act which is now a repealed one.
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NON-COMPLIANCE UNDER SECTION 252

SL. NO	NCLT JURISDICTION AND NO. OF ORDERS PASSED	ORDER PASSED AGAINST AND AMOUNT OF FINE	NATURE OF NON-COMPLIANCE	OTHER RELEVANT POINTS, IF ANY
1	BENGALURU – 1	On Company – Rs. 8,01,100 On Directors – 4,25,025 each	Failure to maintain minimum number of directors	In this instance, the company failed to maintain minimum number of directors and hence violated the said provision.

NON-COMPLIANCE UNDER SECTION 173 r/w 441

SL. NO	NCLT JURISDICTION AND NO. OF ORDERS PASSED	ORDER PASSED AGAINST AND AMOUNT OF FINE	NATURE OF NON-COMPLIANCE	OTHER RELEVANT POINTS, IF ANY
1	CHANDIGARH – 1	On company – Rs. 50,000 On Directors – Rs. 50,000 each	Failure to convene board meetings	In this instance, the company failed to conduct board meeting due to disputes between members of the company

NON-COMPLIANCE UNDER SECTION 67

SL. NO	NCLT JURISDICTION AND NO. OF ORDERS PASSED	ORDER PASSED AGAINST AND AMOUNT OF FINE	NATURE OF NON-COMPLIANCE	OTHER RELEVANT POINTS, IF ANY
1	AMARAVATI – 1	On company – Rs. 8,25,100 On Directors – Rs. 8,25,100 each	Usage of shareholder's funds for expansion	In this instance, the exit offer to the eligible shareholders were delayed as the company utilized those funds for the company's expansion
2	MUMBAI – 1	On company – Rs. 3,42,11,500	Allotted equity shares more than the required amount	In this instance, the company has allotted the equity shares to more than 49 persons which is a non-compliance under 67(5)

NON-COMPLIANCE UNDER SECTION 117 r/w 403

SL. NO	NCLT JURISDICTION AND NO. OF ORDERS PASSED	ORDER PASSED AGAINST AND AMOUNT OF FINE	NATURE OF NON-COMPLIANCE	OTHER RELEVANT POINTS, IF ANY
1	CHANDIGARH-1	On Company – Rs. 5,00,000 On Directors – rs. 50,000 Each	Failure to file E-form MGT 14	In this instance, the company failed to file the e-form MGT 14 within the due date as the company had only limited resources in the company to work with.

NON-MAINTAINABILITY UNDER SEC 441

SL. NO	NCLT JURISDICTION AND NO. OF ORDERS PASSED	ORDER PASSED AGAINST AND AMOUNT OF FINE	NATURE OF NON-COMPLIANCE	OTHER RELEVANT POINTS, IF ANY
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1	NEW DELHI-1	Disposed the application to resort to procedure as per 441(3)	Failure to file application for compounding offence to the registrar	In this instance, the company had no business activity since its incorporation and the directors have not moved any application for compounding the default hence ROC objected. Hence, the court decided to resort the company to follow the procedure as per sec 441(3)
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NON -COMPLIANCE UNDER SECTION 166

SL. NO	NCLT JURISDICTION AND NO. OF ORDERS PASSED	ORDER PASSED AGAINST AND AMOUNT OF FINE	NATURE OF NON-COMPLIANCE	OTHER RELEVANT POINTS, IF ANY
1	BENGALURU – 1	On company – Rs. 39,85,225/- On Director – 5,00,000 Each	The director failed to follow his duty	In this instance, the company failed to conduct AGM for 20 years and did not file Annual returns. The company just completed only one project since its incorporation and had poor performance.

NON-COMPLIANCE UNDER SECTION 129

SL. NO	NCLT JURISDICTION AND NO. OF ORDERS PASSED	ORDER PASSED AGAINST AND AMOUNT OF FINE	NATURE OF NON-COMPLIANCE	OTHER RELEVANT POINTS, IF ANY
1	BENGALURU-1	On Director – 2,78,000	Failure to file Financial statements	In this instance, the company failed to file financial statements and the director decided to discontinue the operations of the company without knowing the legal recourse and did not take any steps to save the company