IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY APPEAL NO.76 OF 2014
IN
CLB COMPANY PETITION NO.19 OF 2013

Badve Engineering Limited ...Appellant
(Org. Petitioner)

Versus

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Dr. Veerendra Tulzapurkar, Senior Advocate, a/w. Mr. Niranjan Vaghela, i/b. Pandya & Co., for the Appellant.

None for the ROC/RD.

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CORAM: S.C. GUPTE, J.

DATE : 21 AUGUST, 2015.

P. C. :-

. The Company Appeal impugns an order passed by the Company Law Board dated 28 May 2014. This order was passed by the Company Law Board on a suo motu rectification application under Section 111(4)/111(A) of the Companies Act, 1956 submitted by the Applicant Company before the Company Law Board. The rectification application was on the footing that, in a meeting of its board of directors held on 31 March 2012, the Company had allotted 1,400 equity shares of Rs.10 each for a premium of Rs.4,990/- per share. The allotment was made to the existing shareholders of Company, all of whom are family members. In the return of the allotment in Form No.2, however, the allotment was mentioned through oversight as an allotment of 7,00,000 equity shares instead of 1,400 equity shares. Instead of taking into account the premium of Rs.4,990/- per share, what appears to have been done is that the entire allotment money was shown at par towards an equity share of Rs.10/-, thus accounting for an allotment of 7,00,000 equity shares. Similarly, in the second allotment made vide a board resolution dated 21 May 2012, where 18,600 equity shares of Rs.10 each were allotted at a premium of Rs.4,990/- per equity share, the return of allotment showed 93,00,000 shares allotted at Rs.10 per share instead of 18,600 shares at Rs.10 plus a premium of Rs.4,990/- per share. When this mistake was realized, the Company made an application for suo motu rectification of its register. The Company Law Board rejected its application after having come to "*definite conclusion that the petition is malafide, collusive and has been made with an oblique motive*". It cannot be fathomed on what basis the Company Law Board has made this observation. It is obvious that the mistakes which have occurred in respective returns of allotment are through oversight and can be explained easily. In fact, after realizing the mistake, the Applicant Company has filed a correct annual return in September 2013 returning a share capital of 3,14,220 shares of Rs. 10 each. The impugned order of the Company Law Board is clearly unsustainable and deserves to be set aside. The appeal is allowed and the impugned order is set aside and the original Company Petition for rectification of the register is allowed in terms of prayer clauses (i), (ii) and (iii).

(S. C. GUPTE, J.)