

NATIONAL COMPANY LAW TRIBUNAL

COURT-V, MUMBAI BENCH

1. CP/188(MB)2023

**IN THE MATTER OF**

Kolhapur Hotels Pvt Ltd

... Petitioner

Vs

Registrar of Companies Pune

... Respondent

U/s 441 of the Companies Act, 2013

**Order Delivered on 09.06.2026**

CORAM:

SH. ASHISH KALIA

SH. CHARANJEET SINGH GULATI

MEMBER (J)

MEMBER (T)

**Appearance through VC/Physical/Hybrid Mode:**

For the Petitioner: Adv. Akshay Petkar (VC)

For the Respondent:

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**ORDER**

**CP/188(MB)2023-** The above CP is listed for pronouncement of order. The same is pronounced in open Court, vide a separate order.

Sd/-

ASHISH KALIA  
Member (Judicial)

*//Avdhesh-PS//*

Sd/-

CHARANJEET SINGH GULATI  
Member (Technical)

**NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH, V**

**CP NO. 188/MB/2023**

In the matter of Companies Act, 2013;

AND

In the matter of Kolhapur Hotels Private Limited, a company within the meaning of Section 2(20) of the Companies Act, 2013;

AND

In the matter of Section 441 read with Sections 96 and 99 of the Companies Act, 2013 and further read with Rule 88 of the National Company Law Tribunal Rules, 2016.

**Kolhapur Hotels Private Limited**

A company incorporated under the Provisions of Companies Act, 1956  
Registered office at; 9, Jai Prakash  
Narayan Garden, Pune – 411001

**... Petitioner No. 1/Petitioner Company**

**Mr. Vijay Govind Kuratadkar**

**DIN: 03097894**

4/66, PMC Colony, Sane Guruji Nagar,  
Sadashiv Peth, Pune – 411030

**... Petitioner No. 2**

**Mr. Anant Deu Gawade**

**DIN: 07239612**

Survey No. 36/2, Plot No. 23, Near  
Santoshi Mata Temple, Tingarenagar,

Pune - 411 015

... **Petitioner No. 3**

**Versus**

**Registrar of Companies, Pune**

Address at: Registrar of Companies,  
PCNTDA Green Building, Block A,  
1<sup>st</sup> & 2<sup>nd</sup> Floor, Near Akurdi Railway  
Station, Akurdi, Pune – 411044

... **Respondent**

**Order Delivered on: 09.06.2026**

**Coram:**

Sh. Ashish Kalia  
Member (Judicial)

Sh. Charanjeet Singh Gulati  
Member (Technical)

**Appearance through VC/Physical/Hybrid Mode:**

For the Petitioner: Adv. Akshay Petkar a/w Adv. Pranav Shah (PH)

For the RoC, Pune: Parvez Naikwadi, RoC

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**ORDER**

**CP NO. 188 OF 2023**

1. The present Company Petition is filed on 26.07.2023 by **Kolhapur Hotels Private Limited and Ors. (Petitioners/Petitioner Nos. 1, 2 and 3)** under Section 441 of the Companies Act, 2013 for Compounding of Default under Section 96 of the Companies Act, 2013 along with Section 99 of the Companies Act, 2013 (the “**Act 2013**”), praying therein for compounding of default for not holding its Annual General Meeting (**AGM**) within the time stipulated under the provisions of Section 96 of the Act 2013, for the Financial year (**FY**) 2016-17 which has resulted in the aforementioned default prescribed under the Act, 2013.
2. In accordance with the instant petition, following relief have been sought:

- a. *Permit compounding of the default occurred by Petitioners under Section 96 in exercise of its power, as per the provisions of Section 441 of the Act for all the financial years where Annual General Meeting is not held;*
  - b. *Pass appropriate orders to put an end to the continuous default occurring under Section 96 of the Act in exercise of its inherent power, on account of non-availability of quorum in the Annual General Meeting of the Petitioner Company;*
  - c. *Direct the Registrar of Companies, Pune not to take any coercive action against the Petitioner No. 1 Company or any of Directors including Petitioners pursuant to the default under Section 96 of the Act;*
  - d. *Pending the final hearing and disposal of the present Company Petition direct the Registrar of Companies, Pune / the Assistance Registrar of Companies, Pune / Ministry of Corporate Affairs not to take any coercive or prejudicial action against the Petitioners;*
  - e. *Grant/pass appropriate relief/orders/directions, in terms of sections 96, 99 and/or 441 of the Act, as this Hon'ble Tribunal may deem fit, in the interest of justice.*
3. The Petitioner No. 1 Company is a Private Company incorporated on 22.04.1985 as per the provisions of the Companies Act, 1956. The present registered office of the company is situated at 9, Jai Prakash Narayan Garden, Pune – 411001.
4. The Main object of the Company as mentioned in the paragraph III(A)(1) of the Memorandum of Association of the Company is as follows:

*“To carry on the business of owning, acquiring, constructing, operating, conducting, running to take on rent, hire, to give on rent, hire, residential hotels, restaurants, lodging and Boarding houses,*

*cafes refreshment rooms, motels, tea house, coffee houses, liquor bar, foods stalls, fruit, stall, milk bars and/or/other places for selling and consumption of food, places of amusement. recreation, sport, entertainment.”*

5. The Authorized share capital of the petitioner company is as follows:

<b>Particulars</b>	<b>Amount (Rs.)</b>
<b><u>Authorized Share Capital</u></b>	
1,000 equity shares of Rs. 100/- each	1,00,000
<b>Total</b>	<b>1,00,000</b>
<b><u>Paid-up Share Capital</u></b>	
1,0000 equity shares of Rs. 100/- each fully paid up	1,00,000
<b>Total</b>	<b>1,00,000</b>

6. The Petitioners submits that, since its incorporation in the year 1985, Petitioner No. 1 Company has maintained a record of compliance with the applicable statutory requirements. It is stated that the Company duly convened its Annual General Meetings up to the Financial Year 2015–16 and has also been regular in filing its income tax returns.

7. It is submitted that the Petitioner No. 1 Company had only two shareholders, namely, Mr. Kanhaiyalal Motilal Talera, holding 90% of the shareholding, and Mr. Praful Kanhaiyalal Talera, holding the remaining 10%. Upon the demise of Mr. Kanhaiyalal Motilal Talera on 28.03.2017, Mr. Praful Kanhaiyalal Talera remained the sole surviving member of the Petitioner No. 1 Company. Consequently, the Company has been unable to constitute the requisite quorum for convening and holding any general meeting as prescribed under Section 103(1)(b) of the Act, 2013. It is further submitted that, till date, the Petitioner No. 1 Company has not received any intimation or request for transmission of

the shares standing in the name of Late Mr. Kanhaiyalal Motilal Talera from any person informing that he/they are the persons in whom the right to get transmission of shares of the Petitioner No. 1 Company, registered as the person/persons to whom rights have been transmitted, as per the applicable personal law to Late Mr. Kanhaiyalal Motilal Talera.

8. The Petitioners submits that, the Petitioner No. 1 Company prepared and filed the unadopted Financial Statements for the Financial Years 2016–17 to 2021–22, along with the acknowledgements of the corresponding Income Tax Returns. Further, while filing Form AOC-4, the Petitioner No. 1 Company also furnished a separate explanatory statement before the Registrar of Companies, Pune (“**ROC, Pune**”), setting out the factual circumstances and reasons due to which the Annual General Meetings for the aforesaid financial years could not be convened.
9. It is submitted that the MCA issued a Show Cause Notice dated 04.11.2019 under Section 99 of the Companies Act, 2013 to the Petitioner Company and its directors for non-compliance with Section 96 of the Act. In reply dated 13.11.2019, the Petitioner Company explained that the AGM could not be convened due to the demise of Mr. Kanhaiyalal Motilal Talera and the absence of any intimation regarding transmission of his shares, and sought guidance for convening the AGM.
10. Accordingly, the Petitioners have filed the present petition under Section 441 read with Section 96 of the Companies Act, 2013, seeking compounding of the offence punishable under Section 99 of the Act.
11. The RoC, Pune has filed its report dated 24.03.2025 and we have perused the same. The Report states that the Company and its director violated the provision of Section 96 of the Act 2013. Further, RoC Pune report states that this is the

first offence committed by the Petitioner Company under this Section. Relevant extract of the RoC Pune report is reproduced hereunder:

12.	<i>Name of the Petitioners, designation of Directors/ Officers in default with regard to violation of Section</i>	<p>1. Kolhapur Hotels Pvt Ltd - Applicant 1  2. Vijay Govind Kuratadkar - Director - Applicant 2  3. Anant Deu Gawade -Director- Applicant 3</p>
13.	<i>Name of the Officers in Default/KMP not applied for Compounding, if any</i>	NA
14.	<i>Period of Default</i>	FY 2016-17 to till date
15.	<i>Nature of Default</i>	<p><b>FY 2016-17</b>  The AGM of the FY 2016-17 was due or, 30.09.2017 however the Company concluded the AGM on 08.09.2020.</p> <p><b>Default u/ s 96 of the Companies Act, 2013 as follows:</b>  “96. Annual general meeting.  (1) Every company other than a One Person Company shall in each year hold in addition to any other meetings, a general meeting as its annual general meeting and shall specify the meeting as such in the notices calling it, and not more than fifteen months shall elapse between the date of one annual general meeting of a company and that of the next:  Provided that in case of the first annual general meeting, it shall be held within a period of nine months from the date of closing of the first financial year of the company and in any other case, within a period of six months, from the date of closing of the financial year:  Provided further that if a company holds its first annual general meeting as aforesaid, it shall not</p>

		<i>be necessary for the company to hold' any annual general meeting in the year of its incorporation: Provided also that the Registrar may, for any special reason, extend the time within which any annual general meeting, other than the first annual general meeting, shall be held, by a period not exceeding three months.</i>
16.	<i>Gist of the request made for Composition of the Offence</i>	<ul style="list-style-type: none"> <li>- <i>Permit compounding of the default occurred by petitioners under section 96 of the Act it exercises of its power, as per the provision of section 441 of the Act.</i></li> <li>- <i>Pass appropriate orders to put an end to the continuous default, occurring under section 96 of the Act in exercise of its inherent power, on account of non- availability of quorum in the Annual General Meeting of the petitioner company.</i></li> <li>- <i>Direct the Registrar of Companies, Pune not to take any coercive action against the petitioner No.1 company or any of Directors including petitioners pursuant to the default under section 96 of the Act.</i></li> <li>- <i>Grant/ pass appropriate relief/ orders/directions, in in terms of 96, 99 and/or 441 of the Act, as this Hon'ble Tribunal may deem fit, in the interest of justice.</i></li> </ul>
17.	<i>Reasons for committing the offence. Whether the offence is a one-time to violation or continuing of violations?</i>	<i>Out of 2 member of the petitioner No.1 company one member died and thereafter another member is the only member entitled attend general meetings till transmission attend general meetings till transmission.</i>
18.	<i>Comments of the Registrar of Companies</i>	
	<i>A. How the Offence arose or came up/default noticed from:</i>	<i>Show cause notice from MCA under section 99 of the Act.</i>

	<i>B. Whether this is the first offence, if not, the previous defaults under the same section</i>	<i>It is first time offence</i>															
	<i>C. Whether similar offence compounded during last three years</i>	<i>No</i>															
	<i>D. Whether the offence is made good and if so, how with proof</i>	<i>No</i>															
	<i>E. Maximum amount of fine under the Charging section</i>	<p><b>Section 99 of the Companies Act, 2013:</b>  <i>"If any default is made in holding a meeting of the company in accordance with Section 96 or section 97 or section 98 or in complying with any directions of the Tribunal, the company and every officer of the company who is in default shall be punishable with fine which may extend to one lakh rupees and in the case of a continuing default, with a further fine which may extend to five thousand rupees for every day during which such default continues."</i></p>															
	<p><i>F. Fine/Penalty (Calculation to be given)</i></p> <p><i>For Company:</i></p> <p><i>For Officers in default:</i></p>	<p><b><u>For the F.Y 2016-17:</u></b>  <i>Due date of AGM 30.09.2017 for the FY year 2016-17. AGM has not yet been held. Hence calculation of penalty is not possible at this stage. However as on the date of submission the reply the penalty is as under:</i></p> <table border="1" data-bbox="651 1653 1434 2038"> <thead> <tr> <th><b>Particulars</b></th> <th><b>Fine</b></th> <th><b>Per Day</b></th> <th><b>No. of Days</b></th> <th><b>Total</b></th> </tr> </thead> <tbody> <tr> <td><i>Company Applicant - 1</i></td> <td><i>1,00,000</i></td> <td><i>5,000</i></td> <td><i>2725</i></td> <td><i>1,37,25000</i></td> </tr> <tr> <td><i>Officers in default – Applicant – 2</i></td> <td><i>1,00,000</i></td> <td><i>5,000</i></td> <td><i>2725</i></td> <td><i>1,37,25000</i></td> </tr> </tbody> </table>	<b>Particulars</b>	<b>Fine</b>	<b>Per Day</b>	<b>No. of Days</b>	<b>Total</b>	<i>Company Applicant - 1</i>	<i>1,00,000</i>	<i>5,000</i>	<i>2725</i>	<i>1,37,25000</i>	<i>Officers in default – Applicant – 2</i>	<i>1,00,000</i>	<i>5,000</i>	<i>2725</i>	<i>1,37,25000</i>
<b>Particulars</b>	<b>Fine</b>	<b>Per Day</b>	<b>No. of Days</b>	<b>Total</b>													
<i>Company Applicant - 1</i>	<i>1,00,000</i>	<i>5,000</i>	<i>2725</i>	<i>1,37,25000</i>													
<i>Officers in default – Applicant – 2</i>	<i>1,00,000</i>	<i>5,000</i>	<i>2725</i>	<i>1,37,25000</i>													

		<i>Officers in default – Applicant – 3</i>	<i>1,00,000</i>	<i>5,000</i>	<i>2725</i>	<i>1,37,25,000</i>
<i>19.</i>	<i>Complaint received if any</i>	<i>No</i>				
<i>20.</i>	<i>Whether any prosecution has been filed and if so, the present status</i>	<i>No</i>				
<i>21.</i>	<i>Whether there is any winding up petition filed against the company or under winding up or under striking off or a Merged entity? If so, details thereof.</i>	<i>No</i>				
<i>22.</i>	<i>Whether there is any winding up petition filed against the company or under winding up or under striking off or a Merged entity? If so, details thereof.</i>	<i>Nothing has come to the notice of this office</i>				
<i>23.</i>	<i>Investigation/Inspection, if any against the Company.</i>	<i>Nothing has come to the notice of this office</i>				
<i>24.</i>	<i>Whether the company/applicants have authorised any representative to represent the case before NCLT?</i>	<i>Yes, as per board resolution dated 18.01.2023 authorised to Mr. Akshay Petkar, Advocate to represent the case before the authorities.</i>				
<i>25.</i>	<i>Filing Position of Annual Return and Balance Sheet</i>	<i>The Company has filed Annual Return Balance Sheet as on 31.03.2024.</i>				

26.	<i>Financial Position of the Company as per the latest Balance Sheet filed</i>	<i>Loss for the year ended 31.03.2024 is Rs. 1,887,317/-</i>
27.	<i>Whether the offence is compoundable by Regional Director or NCLT</i>	<i>The offence is compoundable by NCLT.</i>
28.	<i>Whether any other violations of the Companies Act, 1956 are notice for which any proceeding is contemplated by the office of ROC? If so details thereof.</i>	<i>No</i>
29.	<i>Whether the petition has been signed by all the petitioners and proper individual Affidavits have been submitted. If no, details to be provided.</i>	<i>Yes</i>
30.	<i>Special feature, if any, having a bearing on the application</i>	<i>No</i>
31.	<i>Observation and recommendation</i>	<i>The Companies Act, mandates minimum 2 shareholders for the company as per section 3 of Companies Act, 2013. Further, it has been submitted by the petitioner that the AGM was not convened due to non-availability of the quorum due to decease of one of the shareholders of the Company. However, from the application of the company, it could not be ascertained if the company or the board of the directors had taken any steps for the transfer of the shares. For compliance of the provisions of the Act, the other</i>

		<p><i>existing member could have made an application u/s 97 of the Companies Act, 2013 to this tribunal wherein a direction could have been sought that one member of the company shall be deemed to constitute a meeting. However, no such record is available regarding the same.</i></p> <p><i>In view of the above, the matter may be decided on merits.</i></p>
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32. Heard the Ld. Counsel for the petitioners and Mr. Parvez Naikwadi, ROC, Pune and perused the Petition as well as the RoC Report.

33. In view of the above, we are of considered view that the Petitioners herein have defaulted in complying with the provisions of Section 96 of the Companies Act, 2013 which offence is punishable in accordance with Section 99 of the Companies Act, 2013. Section 96 and Section 99 of the Act 2013 reads as follows:

***“Section 96: Annual General Meeting***

*(1) Every company other than a One Person Company shall in each year hold in addition to any other meetings, a general meeting as its annual general meeting and shall specify the meeting as such in the notices calling it, and not more than fifteen months shall elapse between the date of one annual general meeting of a company and that of the next.*

*Provided that in case of the first annual general meeting, it shall be held within a period of nine months from the date of closing of the first financial year of the company and in any other case, within a period of six months, from the date of closing of the financial year:*

*Provided further that if a company holds its first annual general meeting as aforesaid, it shall not be necessary for the company to hold any annual general meeting in the year of its incorporation.*

*Provided also that the Registrar may, for any special reason, extend the time within which any annual general meeting, other than the*

*first annual general meeting, shall be held, by a period not exceeding three months.*

...”

**“Section 99: Punishment for default in complying with provisions of sections 96 to 98.**

*If any default is made in holding a meeting of the company in accordance with section 96 or section 97 or section 98, or in complying with any directions of the Tribunal, the company, and every officer of the company who is in default shall be punishable with fine which may extend to one lakh rupees and in the case of a continuing default, with a further fine which may extend to five thousand rupees for every day during which such default continues.”*

34. During the course of hearing, the Ld. Counsel for the Petitioners submitted that the Petitioner Company qualifies as a small company and is therefore entitled to the benefit of Section 446B of the Act, 2013. It was contended that, in view of the said provision, the penalty imposable cannot exceed Rs. 2,00,000 in respect of the Company and Rs. 1,00,000 in respect of the officer in default. Further, the Ld. Counsel relied upon the judgment of the Hon’ble NCLAT in ***Pahuja Takii Seed Ltd. & Ors. v. Registrar of Companies, NCT of Delhi & Haryana*** (2018) ibclaw.in 341 NCLAT, decided on 27.09.2018, to contend that the Tribunal is empowered to determine the quantum of compounding of offences irrespective of any limit. It was further contended that, in terms of Section 441 of the Companies Act, 2013, both the Registrar of Companies and this Tribunal have jurisdiction in matters relating to compounding of offences under the Act.

35. Per contra, Mr. Pravez Naikwadi, RoC, Pune, submitted that although the Petitioner Company is as a small company, the benefit of Section 446B of the Companies Act, 2013 is confined to cases involving imposition of a “penalty” under the Act. It was contended that the said provision does not extend to a

“fine” prescribed for contravention of Section 96 and punishable under Section 99 of the Act. Therefore, the benefit of Section 446B is not available to the Petitioners in the present case.

36. Considering the rival submission of the parties, we observe that in the Section 446B of the Act, 2013, the word used is “penalty”, whereas in the provision of the Section 99 of the Act, 2013, the word used is “fine”. These two separate words have been used by the legislator in different provision of the law and therefore, the same cannot mean one and the same thing. Further, when the literal interpretation of law is clear and unambiguous, the purposive interpretation or any reading into the law as canvassed by the Ld. counsel of the Petitioners cannot be resorted to.

37. Accordingly, having regard to the facts and circumstances of the case, the offence committed under Section 96 of the Companies Act, 2013 as stated and explained above, is hereby compounded with. It is mentioned that in this case there is no dispute as to the maximum fine as calculated by the RoC. The Compounding Fee is calculated in the manner tabulated below:

<b>Fine calculated u/s 99 of the Companies Act, 2013: -</b>						
<b>Financial Year 2016-17</b>						
<b>Applicant/ Petitioner No.</b>	<b>Due date of AGM</b>	<b>Period of Delay</b>	<b>Fine Calculation by the RoC</b>	<b>Total Amount of Fine calculated by the RoC</b>	<b>Compounding fees</b>	<b>Total</b>
1.	30.09.2017	2725	1,00,000 + (5000*2725)	1,37,25,000	1000 + (500*2725)	13,63,500
2.	30.09.2017	2725	1,00,000 + (5000 *2725)	1,37,25,000	1000 + (500*2725)	13,63,500
3.	30.09.2017	2725	1,00,000 + (5000 *2725)	1,37,25,000	1000 + (500*2725)	13,63,500

38. As stated above, this Tribunal considers it appropriate to compound the offence committed by the Petitioner Company (Petitioner No. 1), Mr. Vijay Govind Kuratadkar (Petitioner No. 2) and Mr. Anant Deu Gawade (Petitioner No. 3) under section 96 of the Companies Act, 2013 by determining a compounding fee of **Rs. 40,90,500/-** (**Rs. 13,63,500** for Petitioner No. 1, **Rs. 13,63,500** for Petitioner No. 2 and **Rs. 13,63,500** for Petitioner No. 3) to be paid by the Petitioners to “**Pay and Accounts Officer, Ministry of Corporate Affairs, Mumbai**” through Bharat Kosh within 30 days from the receipt of this order. The Tribunal is of the view that the said compounded fee is sufficient as a deterrent for not repeating the admitted default in future.
39. Needless to mention, the offence shall stand compounded subject to the remittance of the Compounding Fee imposed. A compliance report, therefore, shall be placed on record.
40. The Registry shall send a copy of this order to the Registrar of Companies, Mumbai.
41. Accordingly, the C.P. 188 of 2023 is **allowed** and **disposed** of on above terms. File to be consigned to records.

**Sd/-**  
**Ashish Kalia**  
**Member (Judicial)**  
*Saumya – LRA*

**Sd/-**  
**Charanjeet Singh Gulati**  
**Member (Technical)**