

Miscellaneous Provisions

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Penalty for wrongful withholding of Company's Property [Section 630]

- **Complainant:**
 1. Company;
 2. Creditor;
 3. Contributory
- **Nature of Complaint:** *An officer or employee:*
 1. Wrongfully obtained possession of CP;
 2. Being already in possession of any CP **but** wrongfully withholds it; **or** knowingly applies it for unauthorised purposes
- **Complaint to be made to Court;**
 - Property to be so withheld by Officer or Employees and **not by any other person**;
 - CP = In **Co.'s possession either by rent/ lease/ other** legal mode [*Kannankadi Gopal Krishna Nair vs. Prakash Chander Juneja*];

Penalty for wrongful withholding of Company's Property [Section 630]

- **Court may order** for:
 1. Delivery of CP within specified time;
 2. Fine upto Rs. 10,000
- Non-compliance with Court Orders may result in upto 2 years imprisonment;
- Both **Existing as well as Past** Officers or Employees covered u/s 630;
- Property obtained during employment but wrongfully withheld even after cessation of employment, complaint u/s 630 can be filed [*Baldev Krishna Sahi vs. Shipping Corporation of India Limited*]

Offences and Penalties under the Act [Section 629A]

- Applicable **where no specific penalty provided** in the Act;
- **Quantum of Penalty:**
 1. Fine upto Rs. 5,000;
 2. Additional Fine upto Rs. 500 per day of continuance

Composition of Offences [Section 621A]

- **Composition also known as Compounding;**
- **Applicant** = Company or Any Officer in Default;
- **Time for making Application** = Anytime before or during prosecution;
- **Application to be made** to ROC who will forward the same to 'Compounding Authority';
- **Compounding Authority??**
 1. RD if offence punishable with fine $\leq$ Rs. 50,000;
 2. CLB in any other case
- **Compoundable Offences:** Offences punishable with:
 1. Fine;
 2. Fine or Imprisonment;
 3. Fine or Imprisonment or Both
- Compounding not permissible if **similar contravention** again committed within 3 years;

Composition of Offences [Section 621A]

- Compounding Authority has the **discretion to Compound the Offence**;
- **Duties of Applicant:**
 1. Pay fine as specified by Compounding Authority;
 2. Default to be made good if so directed by the Compounding Authority;
 3. Intimate within 7 days of date of Compounding to ROC of the fact of Compounding
- **Effect of Compounding:**
 1. The Prosecution shall not be started;
 2. If Prosecution already pending, Court shall discharge the Company or the Officer

Employees' Money and Securities [Section 417]

- Any money/ security received by the company;
- from its employee(s);
- in pursuance of his contract of service with the company;
- shall be kept/ deposited;
 1. in a post office savings bank account; or
 2. in a special account with SBI/ Scheduled Bank
- No portion of such money/ security be utilised except for the purposes agreed to in contracts of service

Power of Court to Grant Relief in Certain Cases [Section 633]

- **Applicant:** Any Director/ Any Officer
[**Company cannot be applicant**];
- Application to be made to Court;
- **When can an Application be made:**
 1. Where **any proceedings** for negligence/ default/ breach of duty/ misfeasance/ breach of trust are **pending against the officer** of a company;
 2. Where an **officer apprehends** that **any proceedings** for negligence/ default/ breach of duty/ misfeasance/ breach of trust **will be brought against him**;

Power of Court to Grant Relief in Certain Cases [Section 633]

- **No Relief in Certain Cases:**
 1. No relief if default is made under '**any other**' Act [Rabindra Chamarla vs. ROC];
 2. No relief for **criminal proceedings**;
- Conditions for Granting Relief:
 1. Power of Court to grant relief is discretionary;
 2. Court shall give SCN to ROC and any other person;
 3. Court may grant relief if satisfied that:
 - Officer is/ may be so liable; **BUT**
 - Has acted honestly & reasonably; **AND**
 - Having regard to circumstances he ought fairly to be excused
