

**IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(STATUTORY ORIGINAL JURISDICTION)**

**Present :
Mr. Justice Md. Zakir Hossain**

Company Matter No. 518 of 2024

**IN THE MATTER OF :
Md. Shah Alam**

-----Petitioner

-VERSUS-

HawarIT Data Services Limited and
another

----- Respondents

Mr. Mohammad Ariful Islam, Advocate

.....For the Petitioner

Heard and Judgment on: 23.06.2024

Md. Zakir Hossain, J :

This is an application under Sections 81(2) and 85(3) read with Section 396 of the Companies Act, 1994 (briefly, the Companies Act) at the instance of HawarIT Data Services Limited.

The Petitioner sought direction for condonation of delay in holding Annual General Meeting for the calendar year 2022 and 2023.

It is stated that the petitioner is a private limited company incorporated under the Companies Act, 1994 bearing incorporation No.C-73414(1456)/08 dated 19.10.2008.

It is further stated that since, the date of its incorporation, the respondent No.1 company has hold its Annual General Meeting regularly till the calendar year 2021 but failed to hold the last 2(two) Annual General Meeting due to non finalization of the audited balance sheet and also for not getting the DVC within the stipulated time and accordingly 2 years has lapsed away for holding the Annual General Meeting for the Calendar year 2022 and 2023 for the company.

By filling Affidavit-in-Compliance, the petitioner submitted copies of Newspapers from where it is evident that notices have been published in the daily newspapers in compliance of the court order but none was appeared to oppose this application.

Mr. Mohammad Ariful Islam, the learned counsel appearing for the petitioner has placed all the relevant annexures before this court and submits that no

proceeding has been initiated or pending for negligence, default, breach of duty or breach of trust against any directors, managers, officers or the auditors of the HawarIT Data Services Limited particularly for the default in for not holding the last 2 Annual General Meeting.

Mr. Islam next submits that since the directors of the HawarIT Data Services Limited is in default in not holding the Annual General Meeting within the stipulated time due to non finalization of the audited balance sheet as well as for not getting the DVC from the concern authority within the stipulated time, the petitioner, under section 396(2) of the Act is praying for relieving them from the consequence of the above mentioned default.

Mr. Islam, finally submits that it is essential for the company to hold the Annual General Meeting regularly for running the company smoothly and if the same have not held , the company would be seriously prejudiced and this application is made bonafide and for the benefit of the Respondent No.1 company and all of its members as such the delay occurred for holding Annual General Meeting for the calendar year 2022 and 2023 needs to be condoned for the overall betterment and smooth operation of the company and for securing the ends of justice .

Having heard the learned Counsel, it appears that after the incorporation, all Annual General Meeting of the HawarIT Data Services Limited was held regularly till the calendar year 2021 but due to non finalization of audited balance sheet as well as for not getting the DVC from the concern authority within the stipulated time, the respondent No.1 has failed to hold the Annual General Meeting for the calendar year 2022 and 2023.

So, it appears that the reasons for not holding the Annual General Meeting of the respondent No.1 Company in the year 2022 and 2023 has been explained properly and sufficiently.

In the above facts and circumstances, I find substance in the application for not holding the Annual General Meeting for the calendar year 2022 and 2023.

Accordingly, the application is allowed and the delay occurred for not holding Annual General Meeting for the calendar year 2022 and 2023 is hereby condoned.

The petitioner is permitted to call and hold Annual General Meeting of HawarIT Data Services Limited for the year 2022 and 2023 within 60 days from the date of receipt of the Certified Copy of this Judgment and order. The respondent No.2, the Registrar, Joint Stock Companies and Firms is directed to accept all returns, records and

documents to be filed by the petitioner upon holding the Annual General Meeting for the year 2022 and 2023 in pursuant to this order.

The Petitioner intends to donate Tk.40,000 (Forty Thousand Only) which is to be given in the form of Pay Order in the name of “Hasan Faraji, Agrani Bank PLC, Maligram Branch, Faridpur Zone, A/C : 0200021708015.” and furnishing receipt of the payment, the order may be drawn up, if so advised .

The cost of this application shall be borne out of the Funds of the Company.

(Md. Zakir Hossain, J)