

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI**

**Company Appeal (AT) No. 103 of 2018**

**IN THE MATTER OF:**

**Union of India,  
Ministry of Corporate Affairs**

**...Appellant**

**Vs.**

**Gitanjali Gems Limited & Ors.**

**...Respondents**

**Present: For Appellant: - Sh. Sanjay Shorey, JD (L), Sh. S.B. Gautam, Sh. Vinod Sharma, RoC Mumbai, Sh. Ramakant, JD (RD-WR), Sh. Meghav Gupta, Company Prosecutor and Sh. Davvez Naikwadi, (ARoC, Mumbai).**

**For Respondents:- Sh. Abhinav Vashisht, Senior Advocate with Sh. Ashish Prasad, Sh. Dheeraj Nair, Sh. Mahfooz, and Sh. Arpan Behl, Sh. Mohit Bakshi and Sh. Kumar Kislay, Advocates for 5<sup>th</sup>, 6<sup>th</sup> & 7<sup>th</sup> Respondents.**

**Ms. Ritu Bhalla and Mr. Raghare Gupta, Advocates for 8<sup>th</sup> Respondent.**

**O R D E R**

**09.04.2018-** This appeal has been listed on urgent mentioning by the authorised Officer of Union of India in presence of learned counsel for 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup> & 8<sup>th</sup> Respondents, some of whom have appeared by filing Caveat. Taking into the nature of the case, we directed to list the case for admission.

2. The question arises for consideration in this appeal is whether the National Company Law Tribunal (hereinafter referred to as "Tribunal")

is justified in giving a finding in regard to 44<sup>th</sup>, 51<sup>st</sup>, 52<sup>nd</sup> and 53<sup>rd</sup> Respondents of the Company Petition that they are innocent in an application for vacating the interim order of the stay without going into merit of the Company Petition. The other question relates to withdrawal of amount by 35<sup>th</sup> and 38<sup>th</sup> Respondents of the Company Petition by modifying the interim order dated 23<sup>rd</sup> February, 2018, though the Tribunal accepts that a *prima facie* case has been made out against them.

3. The Appellant-Union of India filed an application under Sections 241(2) and 242 read with other provisions of the Companies Act, 2013, alleging that the affairs of the 1<sup>st</sup> Respondent Company- **“Gitanjali Gems Limited”**, its group companies and LLPs have been/being conducted prejudicial to public interest of India. In the said petition, an interim order was passed by the Tribunal on 23<sup>rd</sup> February, 2018, relevant portion of which reads as follows:

*“8. The Petitioner has candidly said that if notice has been given to the parties prior to hearing then there is every possibility of consuming time for effecting service in view of the exigency involved in this case, the Petitioner in view of the public interest has sought for ex-parte orders, for this Bench having noticed that the Petitioner has established prime facie case for*

*asking ex-parte orders, this Bench has passed this ex-parte order.*

*9. In view of the same, this Bench, by invoking section 221 of the Companies Act, 2013 and section 43 of LLP Act, 2008, hereby injunct the Respondents and other companies, LLPs, Trusts and individuals mentioned above from removal, transfer or disposal of funds, assets and properties of the entities and individuals mentioned above until further orders.”*

4. In the said petition, a number of applications were filed by the contesting Respondents for modification/vacation of the interim order wherein in respect of four Respondents aforesaid, the interim order has been vacated by the Tribunal giving a finding that they are innocent without going into the merit or public interest. With regard to the other two Respondents, the interim order has been modified by allowing them to withdraw certain amount from their Bank account.

5. Taking into consideration the nature of the case, we direct to issue notice on Respondents. The 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup> & 8<sup>th</sup> Respondents have appeared, no further notice need be issued to them. They may file their reply within ten days.

6. Let notice be issued on rest of the Respondents. Requisite along with process fee, if not filed, be filed by 10<sup>th</sup> April, 2018. If the Appellant

provides the e-mail address of rest of the Respondents, let notice be also issued through e-mail. The Appellant will serve a copy of the paper book on each of the Respondents or their counsel separately.

Post the matter on 23<sup>rd</sup> April, 2018.

7. Until further orders, the operation of the impugned order dated 2<sup>nd</sup> April, 2018 passed in the connected miscellaneous application in Company Petition No. 277 of 2018 shall remain stayed.

(Justice S.J. Mukhopadhaya)  
Chairperson

(Justice Bansi Lal Bhat)  
Member(Judicial)

Ar/uk