

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) No. 217 of 2017

IN THE MATTER OF:

Mr. Vijay Vasant Dhavle

... Appellant

Versus

**M/s. Dolce Pharmaceuticals Private Limited
and Others**

... Respondents

**Present: For Appellant: - Shri Virender Ganda, Senior
Advocate instructed by Shri**

**For Respondents Nos. 1, 4 & 5 : Shri Ramdas T.
RajGuroo, Advocate**

ORDER

17.07.2017 The prayers made by the appellant/petitioner have been rejected by the National Company Law Tribunal (hereinafter referred to as 'Tribunal'), Mumbai Bench, Mumbai by the impugned order dated 1st May, 2017 on the ground that they are barred by limitation.

One of the questions arises in this appeal is whether in a petition filed under Sections 397 and 398 read with Sections 402 and 403 of the Companies Act, 1956 preferred in the year 2012, Section 433 of the Companies Act, 2013 will be applicable ? In case it is not applicable, then the appellant/petitioner will have to state the grounds of delay and laches, if any, in preferring the petition.

Let notice be issued on the respondents. Shri Ramdas T. RajGuroo, Advocate accepts notice on behalf of Respondents Nos. 1, 4 and 5. Vakalatnama filed by Shri RajGuroo is kept in file. No further notice be issued on them. Let notice be issued on the rest of the respondents by Speed Post. Requisite alongwith process fees, if not filed, be filed by tomorrow i.e. 18th July, 2017. If the appellant provides e-mail address of these respondent, then let notice be also issued through e-mail.

At this stage, learned counsel for Respondents Nos. 1, 4 and 5 submits that Respondent No. 3 has expired during the pendency of the company petition. In such case, learned counsel for the appellant will find out whether a petition for substitution of deceased Respondent No.3 is necessary or not.

Post the matter on 1st August, 2017.

(Justice S.J. Mukhopadhaya)
Chairperson

(Balvinder Singh)
Member (Technical)

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