

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI
Company Appeal (AT) No. 14 of 2018

IN THE MATTER OF:

Nextgen Dealers Pvt. Ltd. & Anr.

...Appellants

Vs

The Agarpara Co. Ltd. & Ors.

....Respondents

Present:

For Appellants: Mr. Abhijeet Sinha, Ms. Henna George and Mr. Saikat Sarkar, Advocates.

For Respondents: Mr. Arvind Kumar Gupta and Mr. Gaurav Kejriwal, Advocates for R-1.

Mr. Atanu Mukherjee, Advocate for R-20.

O R D E R

22.05.2018: The Appellant/Petitioner (herein after referred to as 'Petitioner') filed a petition under Section 397 and 398 of the Companies Act, 1956 (Section 241 and 242 of the Companies Act, 2013) being Company Petition No. 43 of 2014. 20th Respondent to the said petition moved a C.A. No.1815 of 2015 for deleting his name, which was allowed by National Company Law Tribunal, Kolkata Bench (herein after referred to as 'Tribunal') by order dated 9th January, 2017 and it was further ordered that consequential relief sought against respondent no.20 is denied.

2. The order dated 9th January, 2017 was challenged by the petitioner before this Appellate Tribunal in Company Appeal (AT) No.48 of 2017 which was dismissed by this Appellate Tribunal by order dated 6th April, 2017. Being aggrieved the petitioner moved before the Hon'ble Supreme Court in Civil Appeal No. D 25088 of 2017, which was also dismissed by the Hon'ble Supreme Court on the ground of delay and also on merits by order dated 23rd October, 2017, thereby order of the Tribunal dated 9th January, 2017 reached finality on 23rd October, 2017, when the matter was taken up on 21st November, 2017 the Tribunal by impugned order dated 21st November, 2017 dismissed the Company Petition alongwith pending applications in view of non-compliance of order dated 9th January, 2017.

3. Notices were issued and served on respondents. Some of the Respondents on whom notice could not be issued were informed through newspapers, one English and one Hindi. The contesting respondent being appeared, we have heard the parties.

4. Taking into consideration the fact that the Petitioner (Appellant herein) was contesting the matter before this Appellate Tribunal and the Hon'ble Supreme Court and the SLP was dismissed only on 23rd October, 2017, we are of the view that the Petitioner (Appellant herein) made out a good ground for non-compliance of order dated 9th January, 2017, which could not be complied with till 23rd October, 2017.

5. For the reasons aforesaid we set aside the impugned order dated 21st November, 2017 and direct the Petitioner (Appellant herein) to make necessary amendment in petition as per order dated 9th January, 2017 by 1st June, 2018. The case be listed before the Tribunal (National Company Law Tribunal), Kolkata bench on 12th June, 2018 under caption 'for orders'. Parties will appear on the above date and Tribunal will fix a date for hearing and also issue notice to the respondents, who may not have knowledge. The appeal is allowed with aforesaid observations and directions.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

am/gc