

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) No. 374 of 2017

IN THE MATTER OF:

Iberchem S.A. & Ors.

.. Appellants

Versus

Yatin Chandulal Davada & Ors.

.. Respondents

Present:

For Appellants: **Shri Rajeev Mehra, Senior Advocate assisted by Shri Dheeraj Nair, Shri Ritunjay Gupta and Ms. Shruti Aggarwal Advocates**

For Respondents: **None.**

O R D E R

09.11.2017 Learned Counsel for the Appellants submits that alleged allegation of ‘oppression and mismanagement’ made by the Respondents in the petition under Section 241 of the Companies Act, 2013 arises out of agreement. According to him no allegation of ‘oppression and mismanagement’ can be alleged based on the agreement reached between the parties. For the said reason, the Appellants filed an Application under Section 8 of the Arbitration and Conciliation Act, 1996 but Learned National Company Law Tribunal, Ahmedabad Bench, Ahmedabad (hereinafter referred to as **Tribunal**) without deciding the Application under Section 8 of the Companies Act 2013, directed the Appellants/Respondents to file reply in regard the

allegations made in the petition filed under Section 241 of the Companies Act, 2013.

Let notice be issued on Respondents as to why the Tribunal be directed to decide the application under Section 8 of the Arbitration and Conciliation Act, 1996. Requisites along with Process fee, if not filed, be filed by tomorrow. If the Appellants provide e-mail address of the Respondents, let notice be also issued through e-mail. Post the matter on 28th November, 2017 before appropriate bench.

In the meantime, the Appellants may file reply to the Company petition pending before the Tribunal and the Respondents may also file their rejoinder. Pendency of the appeal will not come in the way of Tribunal to decide the Application under Section 8 of the Arbitration & Conciliation Act, 1996 uninfluenced by the order passed by the Tribunal.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice A.I.S. Cheema]
Member (Judicial)

[Balvinder Singh]
Member (Technical)

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