

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) No.268 of 2017

IN THE MATTER OF:

Ashok Mittal & Anr

...Appellant

Vs

Uniworth Resorts Ltd & Ors.

...Respondent

**Present: Mr. Jayant Mehta, Mr. Saurabh Kalia, Ms Shruchi Sejwar with Mr Rahul Kukreja, Advocates for appellant.
Mr. Narendera M. Sharma and Mr. Abhishek Sharma, Advocates for Respondent No.7, Ms. Sakshi Mehley with Mr. Akshey Arya, Advocates for Respondent No.1 and 6.**

ORDER

14.11.2017- From the order dated 1.11.2017 we find that the Division Bench has already applied its mind on the issue. Learned counsel for the appellant submit that by an order dated 22nd August, 2017, the Tribunal intended to issue notice to all the four persons mentioned at para G of C.A. No.122 of 2007 and before the other Bench, the respondent took the plea to limited notice issued to Indoworth India Ltd. Learned counsel for the appellant submits that for reason aforesaid these cases have been posted before this Bench.

The order dated 22nd August, 2017 reads as follows:

“22.08.2017- Though, it appears that none of the persons mentioned at paragraph G of C.A. No.122/2007 (Pages 83 & 84) a necessary party, and the Tribunal has ample powers under Section 242 of the Companies Act to pass appropriate orders in a petition under Section 241 and 242 of Companies Act, 2013 (old Sections 397, 398 and 402), but in view of the fact that the amendment petition was allowed by CLB to the extent of allotment of shares in favour of ‘Indoworth India Ltd’, we issue limited notice to the respondents as to why ‘Indoworth India Ltd’ be not impleaded as party respondent to the Company Petition. Requisite alongwith process fee, if not filed, be filed by tomorrow. If the appellants provide the email address of the respondents, let notice be also issued through email. Dasti service is also permitted. Post the matter on 29th August, 2017.”

2.

From the aforesaid order we find that in view of the fact that the amendment petition was allowed by CLB to the extent in favour of Indoworth India Ltd, limited notice was issued as to why Indoworth India Ltd be not impleaded as party respondent to the Company Petition.

At this stage the appellant submits that the Bench orally observed that the notice will be issued to all the four persons, in view of the amendment petition which was dis-allowed by the Tribunal with regard to all the persons. However, there is nothing on record to suggest the same that any oral observation was made by the Bench.

Having heard learned counsel for the parties, we are of the view that the question whether notice should be issued to all the four persons, has not been decided earlier. The aforesaid question is left open for the Bench to decide the same on the next date. The Bench will hear the matter and apply its mind on 23rd November, 2017 and will decide such issue uninfluenced by the orders dated 22nd August, 2017.

Let the matter be placed before the Bench of Hon'ble Justice A.I.S. Cheema, Member (Judicial) and Mr. Balvinder Singh, Member (Technical) on 23.11.2017.

(Justice S.J. Mukhopadhaya)
Chairperson

(Justice A.I.S. Cheema)
Member (Judicial)
Bm/gc

(Mr. Balvinder Singh)
Member (Technical)