

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

**Company Appeal (AT) No. 217 of 2017**

**IN THE MATTER OF:**

**Mr. Vijay Kumar Dhavle**

**...Appellant**

**Versus**

**M/s. Dolce Pharmaceuticals Pvt. Ltd. & Ors.**

**...Respondents**

**Present:**

**For Appellants :**

**Shri Virender Ganda, Senior Advocate assisted  
by Shri Iswar Mohapatra and Ms. Shelly  
Khanna, Advocates**

**For Respondent Nos. 1,  
4 and 5:**

**Shri Rudreshwar Singh and Shri Kaushik  
Poddar, Advocates**

**O R D E R**

**04.09.2017**      It appears that the shares were transferred in favour of 4<sup>th</sup> and 5<sup>th</sup> Respondent and their names were recorded in the year 2010. If we accept the stand taken by the appellant that Section 433 of the Companies Act, 2013 cannot be relied upon to hold *res judicata* or barred by limitation, in an application under Section 59 of the Companies Act, 2013 filed in April, 2015, the appellant is required to explain the delay of 5 years in preferring the application under Section 59.

2.      The appellant is allowed to file an additional affidavit explaining the delay and laches, if any, within two weeks. Respondent may file reply within a week thereof.

3. Post the matter on 10<sup>th</sup> October, 2017.

[Justice S.J. Mukhopadhaya]  
Chairperson

[ Balvinder Singh ]  
Member (Technical)

/ns/