

31

**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

C.P. No. 1/73(4)-74/NCLT/AHM/2017

Coram: **Hon'ble Mr. BIKKI RAVEENDRA BABU, MEMBER JUDICIAL**
Hon'ble Ms. MANORAMA KUMARI, MEMBER JUDICIAL

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD
BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 17.01.2018**

Name of the Company: Meena Subhash Kulkarni & Ors.
V/s.
Neesa Agritech & Food Ltd. & Ors.

Section of the Companies Act: Section 73(4) & 74 of the Companies Act, 2013

S.NO. NAME (CAPITAL LETTERS) DESIGNATION REPRESENTATION SIGNATURE

1.

2.

ORDER

None present for Petitioner. None present for Respondent.

Order pronounced in open court. Vide separate sheets.



**MANORAMA KUMARI
MEMBER JUDICIAL**

Dated this the 17th day of January, 2018.



**BIKKI RAVEENDRA BABU
MEMBER JUDICIAL**

**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

CP No. 1/73(4)-74/NCLT/AHM/2017

In the matter of;

1. Meena Subhash Kulkarni
502, Malika CHS,
ICS Colony, Bhosale Nagar,
Pune
2. Neelam Bankar
502, Malika CHS, ICS Colony,
Bhosale Nagar, Pune
3. Savitra Pol
B2/503, Mahalaxmi Vihar,
Vishrantwadi, Pune
4. Shrikant Godbole
Beharay Old Age Home,
Chandan Nagar, Kharadi, Pune
5. Smita Pol
B2/503, Mahalaxmi Vihar,
Vishrantwadi, Pune
6. Sonal Thatte
Bldg No. 2, Flat No.3,
Rahul Nagar, Kothrud, Pune
7. Usman Kacchi
101-A, Radiant Hill View, Opp HP Pump,
Kondhwa, Pune

[Petitioners]

Versus

1. Neesa Agritech and Foods Ltd
Registered Office at
Block No. 279p,
Panchratna Industrial Estate,
Changodar, Gujarat- 382 213, India

Abu

BN Page 1 | 4

2. Sanjay Gupta
(Director M/s. Neesa Agritech and Foods Ltd)
B 202 Dhananjay Towers,
Near Shymal Row House,
Satellite Road,
Ahmedabad- 380 015
3. Manoj Singhal
(Director M/s. Neesa Agritech and Foods Ltd)
A-2/202, La Habitat Apartments,
Thaltej, Ahmedabad- 380 054

[Respondents]

Order delivered on 17th January, 2018

**CORAM: Hon'ble Mr. Bikki Raveendra Babu, Member Judicial
Hon'ble Ms. Manorama Kumari, Member Judicial**

Appearance:

For the petitioners : Learned Advocate Mr. Jaimin Dave.

For the respondent : Learned Advocate Mr. Ravish Bhatt.

ORDER

[Per: Hon'ble Mr. Bikki Raveendra Babu, Member Judicial]

1. Deposit holders filed this petition against Neesa Agritech and Foods Ltd. and its Directors seeking direction to the respondents to repay their Deposit amounts with agreed rate of interest. It is the case of the Deposit holders that the company has not repaid their Deposit amount even after maturity date. It is sated by petitioner that they gave several representations to RD and other corporate officials. In this petition, reply is filed by the company stating that they have moved the Tribunal for extension of time and, therefore, this application cannot be decided separately as there is possibility of conflict of findings.




2. Rejoinder is filed by the petitioner stating that no such petition under section 74 (2) of the Companies Act, 2013 has been filed by Neesa Agritech and Foods Ltd. and, therefore, the question of conflicting views does not arise.
3. In fact some of the Deposit holders approached Hon'ble Company Law Board, Mumbai Bench under section 58 A (9) of the Companies Act, 1956 seeking repayment of Deposits. In the said petition CLB directed the company to pay Deposit within 30 days. Said order was passed on 13.10.2014.
4. In spite of the said order, the company did not repay the amount to any of the Deposit holders including the petitioners. No other reply is filed in this matter. It is not even brought to the notice of this Tribunal that any winding up petition is pending against Neesa Agritech and Foods Ltd.
5. Only legal aspect contended by the learned counsel appearing for the company is that this application under Section 73 (4) is not maintainable in view of the fact that the Deposits were made prior to coming into force Section 73 and 74 of the Companies Act, 2013. Learned counsel appearing for the company contended that the relief under section 73 (4) of the Companies Act, 2013 can be granted in respect of Deposits that were accepted under sub-section 2 of section 73.
6. On the other hand, learned counsel appearing for the Deposit holders contended that Section 73 (4) is applicable to all Deposits including

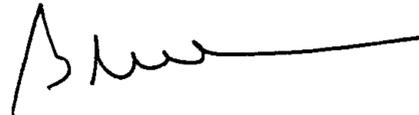


Deposits that were accepted prior to coming into force of section 73 i.e. prior to 01.04.2014. In support of his contention, learned counsel appearing for the Deposit holders relied upon the decision of National Company Law Tribunal, Delhi Bench in Company Application No. 41 of 2016 and 124 of 2016 in the matter of Ms. Bimala Kothari & Others v/s. M/s. Unitech Ltd. decided on decided on 6th October, 2016. In that decision, Hon'ble NCLT, New Delhi clearly held section 73 (4) of the Companies Act, 2013 is applicable to Deposits taken prior to 01.04.2014 also. This Tribunal is also of the same view. In view of the aforesaid decision of NCLT, New Delhi Bench, this Tribunal also holds that direction can be given to the company to repay the Deposit amount that was accepted prior to 01.04.2014 also. One of the reasons coming to the said conclusion is that section 73 (1) only prohibits acceptance or renewal of Deposits. Section 73 (2) enables the company to accept Deposits, following the procedure laid down for the same. Section 73 (4) provides remedy in case of non-repayment of Deposits. Although section 74 (3) provides punishment for non-payment of amount to Deposit holders there must be a remedy for refund of Deposit money to Deposit holders. Therefore, there shall be a direction to the company and its Directors to repay the Deposit amount to the petitioners with agreed rate of interest within 30 days from the date of this order.

7. Petitions is disposed of accordingly.



**Ms. Manorama Kumari,
Member Judicial**



**Bikki Raveendra Babu
Member Judicial**