

National Company Law Tribunal



Allahabad Bench

CP No. 80/ND/2015

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF ALLAHABAD BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 26.02.2018

NAME OF THE COMPANY: Galaxy Life Care Services Ltd

SECTION OF THE COMPANIES ACT/ I & B CODE: 397/398 of the Companies act of 1956

<u>Sl. NO.</u>	<u>Name</u>	<u>Designation</u>	<u>Representation</u>	<u>Signature</u>
1.	RAJNISH SINGH	ADD	Respondent	
2.	Shahid Kazmi	Adv.	Petitioner	

CP NO.80/ND/2015

Sh. Shahid Kazmi proxy for the petitioner Sh. Abhay K Das, Sh. Rajnish Singh, Advocate for the respondent.

In the present matter, the argument on maintainability of CA No. 21/2017 seeking for amendment of the Company Petition were earlier heard. The order in respect of maintainability is dictated separately. The objection on maintainability as raised by the respondent is overruled. Accordingly, the CA No. 21/2017 is found maintainable.

Therefore, the respondent is granted liberty to file a formal reply opposing maintainability application by three weeks.

ORDER

The case is taken up for passing order in respect of preliminary objection on the maintainability of the present company application no. 21/2017 filed for carrying further amendment in the main company petition. The learned counsel appearing for the respondent opposed the filing of such company application at such belated stage, since final arguments in respect of the main company petition were earlier heard and continued before the Division Bench, hence, the present

company application for seeking such amendment not to be considered at this stage and is liable to be rejected at threshold and the case to be fixed for final hearing. Otherwise, if the present amendment application is allowed this will derail the main proceedings and would amount to reopening of the case, which is not justified in the facts and circumstances of the present case. While, on the other hand, the counsel for the petitioner/applicant Sh. Abhay K Das, would submit that the present application is filed in accordance with law and if it is not allowed this may lead to the multiplicity of the proceedings. Further the proposed amendment as being sought for in the company petition through the present application is not going to make change in the nature of proceedings. In support of his contention, the learned counsel placed reliance on a decision dated 26.10.2016 of Division Bench of Hon'ble NCLT Chandigarh. Wherein an amendment application was allowed by the Hon'ble NCLT.

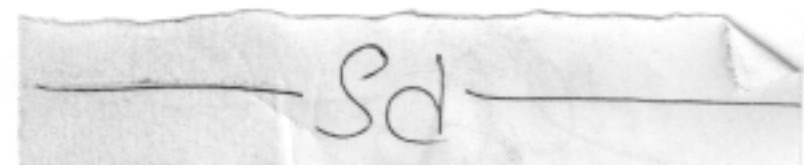
In addition to above, he further placed reliance on catena judgment of Hon'ble Supreme Court wherein it has been laid down that while deciding an amendment application, a Court should not adopt any hyper technical approach rather should adopt a liberal approach as a general rule and to consider whether by allowing such amendment application would serve the interest of justice or otherwise and further as to whether, subsequent events of the company relating to operation and management or allegedly committed in continuation of cause of action in the original petition or otherwise. Since, we feel these are debatable grounds made in favour of the present application needs consideration after the counsel for both parties. Hence, in our view, the present amendment application cannot be thrown out at threshold on the basis of preliminary objection of its maintainability and needs to be considered after hearing of both parties on debatable grounds and by perusal of the detail reply to be filed by the Respondent. Hence, the preliminary objection on maintainability of the petition is overruled.

However, the present CA NO. 21/2017, seeking for amendment would be decided on its merits including the issue of locus standi of the present petitioner to challenge alleged removal of Dr. S.K. Dixit, who is said to belong the petitioner's group of company and also such issue whether he is required to have express authority from him for filing of present application irrespective of this fact that Dr. S.K. Dixit is the father of the present petitioner.

In view of the respondent/non-applicant is granted a liberty to file formal reply, if any, to this amendment application by three weeks and by serving an advance copy to the counsel for petitioner and he is also liberty to file rejoinder affidavit.

The matter to be listed on 28th March, 2018.

Dated:26.02.2018



**H.P. Chaturvedi,
Member (Judicial)**