

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**NEW DELHI BENCH (COURT - II)**

**Item No.105**  
**107(ND)14**  
**CA-364/2021**

**IN THE MATTER OF:**

**Mr. Navin Aggarwal**

... **Applicant/Petitioner**

**Versus**

**M/s. SRG Polypet Pvt. Ltd. & Ors**

... **Respondent**

**Under Section: 397/398 of the Companies Act, 2013**

**Order delivered on 18.08.2021**

**CORAM:**

**SHRI. ABNI RANJAN KUMAR SINHA,  
HON'BLE MEMBER (J)**

**SHRI. L. N. GUPTA,  
HON'BLE MEMBER (T)**

**PRESENT:** Mr. Pankaj Bhagat for Petitioner

**ORDER**

**CA-364/2021:** By filing this CA, the Applicant has prayed for a direction to the Excise Department, L&N Block, Vikas Bhawan, I.P Estate, New Delhi be directed to handover the Fixed Deposit to the petitioner and permit the Petitioner to encash the same.

Heard the Ld. Counsel appearing for the Applicant and perused the averments made in the Application.

Ld. Counsel for the Applicant submitted that the main Application has been filed under Section 397, 398 read with Section 402,403,406 of the Companies Act, 1956, which is still pending. He further submitted that the present Application is under Regulation 44 of the Company Law Regulations seeking directions against the Excise Department to handover the FD to the Petitioner.

In the light of the submissions, we peruse the averments made in the Application and notice that the main Application is pending under the erstwhile Companies Act under Section 397 and 398, which relates to the oppression and mismanagement of the Company. It is a settled principle of Law that as far as the oppression and mis-management is concerned, only a member of the Company can file an application, an application if the affairs of the Company have been or are being conducted in a manner prejudicial to the public interest. Therefore, only the Shareholders and



Directors of the Company are the necessary party to this proceeding. In our considered view, the present CA has been filed against the Excise Department which being a third party is not a necessary party to the main proceedings. Therefore, we are not inclined to allow the prayer of the Applicant.

**Accordingly, the present CA is Dismissed.**



**(L.N. GUPTA)  
MEMBER (T)**



**(ABNI RANJAN KUMAR SINHA)  
MEMBER (J)**