

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI

PRINCIPAL BENCH

CP NO. 148(ND)/2016

IN THE MATTER OF:

Anil Kumar Jain & Anr.

.... Applicant/petitioner

Vs.

Vardhman Roller Flour Mills Pvt. Ltd. & Ors.

.... Respondent

Order under Section 241/242 of the Companies Act, 2016

Order delivered on 29.11. 2017

Coram:

CHIEF JUSTICE (Retd.) M.M.KUMAR

Hon'ble President

Ms. Deepa Krishan

Hon'ble Member (T)

For the Applicant/petitioner: Mr. Manoj Kumar Garg & Mr. Achint Gupta,
Advocates

For the Respondent: Mr. Arun Kumar Saxena & Ms. Jayshree, Advs.

ORDER

C.A. No. 426(PB)/2017

This is an application seeking permission by Applicant-Respondent No.1 Company to pay in respect of the invoices amounting to Rs. 1,27,79,031.90/-. The invoices annexed (Annexure A-2 (Colly) have been raised by the suppliers of wheat. The application is duly supported by the affidavit of Mr. Ashok Kumar Jain one of the director and authorized signatory of respondent No. 1 Company.

It is appropriate to mention that in the order dated 26.10.2017 we have imposed a limit of spending on applicant-Respondent No. 1 company to Rs. 20/- lakhs per day for the reasons that there were serious allegations of siphoning of funds which were required to be adjudicated in the main petition. The aforesaid order is set out below for ready reference:-

"In the meanwhile, respondent No. 1 company may transact business but no transaction exceeding Rs. 20 lakhs for one day should be carried without prior permission of this Tribunal. In other words, total amount of Rs. 20 lakhs could be spent by the

respondent no. 1 company. The reason such an order is necessitated is that there are serious allegations of syphoning of funds which need to be gone into."

A perusal of present application shows that wheat has been purchased by the applicant-respondent No. 1 in pursuance of 38 invoices issued by various firms/companies. The amount is due from 02.11.2017 to 14.11.2017 from a running concern of flour mill. The release of amount would be necessary to have wheat stock failing which business of the applicant-respondent No.1 company may come to standstill.

The application has been opposed on the ground that the order dated 26.10.2017 has been violated on 26.10.2017 itself by making payment of more than Rs. 71 lakhs. However, no other violation could be successfully pleaded. As the order was passed on 26.10.2010 we are not persuaded to take a view that there is a patent violation of that order.

Keeping in view the interest of the applicant-respondent No. 1 Company and the necessity of facilitating the running of business we accept the prayer and permit the payment to be made against invoices listed from serial No. 1 to 38. It is made clear that if the payment has already been made to any of the company/firm against any of the invoices then the same would not be permissible. Let the payment be made to the aforesaid parties strictly in accordance with the invoices raised.

The applicant-respondent No. 1 company shall file an affidavit to the effect that payments have been made only against invoices from serial No. 1 to 38 and none else. The needful shall be done before the next date of hearing.

The matter is already listed for final disposal on 04.12.2017.

The application stands disposed of.

Sd/-
(CHIEF JUSTICE M.M.KUMAR)
PRESIDENT

Sd/-
(DEEPA KRISHAN)
MEMBER(TECHNICAL)