

NATIONAL COMPANY LAW TRIBUNAL

GUWAHATI BENCH: GUWAHATI

I. A. No.30 of 2017

&

I. A. No.04 of 2017

IN

T. P. No.23 of 2016

(Arising out of C. P. No. 06 OF 2016)

Under Section 397/398

In the matter of:

Mr. Bhikam Chand Betala & Ors.

... Petitioners/
Applicants

-versus-

M/s. Arihant Transport and Industries Pvt. Ltd.

& others

...Non-applicants/ Respondents

Coram:

Hon'ble Mr. Justice P. K. Saikia, Member (J)

For the Petitioners/Applicants : Mr. S. K. Baid, FCS

For the Applicants/Respondents: None

ORDER

Date: 25.07.2017

Per Hon'ble Mr. Justice P. K. Saikia, Member (J):

A. No.30 of 2017:

1. This application has been filed seeking the following reliefs: -

"Paragraph (v): Relief sought

A. *I pray as follows:*

1. CO 06/2016 be declared to be "dismissed as withdrawn", with a leave to file a fresh company petition including self same matter, if the aforesaid settlement is finally not arrived at.
2. Such incidental or ancillary order/direction as the Hon'ble National Company Law Tribunal, bench at Guwahati may deem fit be granted."

2. It may be stated that the applicant herein as being petitioner had initiated C. P. No.06/2016 [T.P. No.23/2016] alleging mismanagement in running of the affairs of the respondent company in the name and style of M/s. Arihant Transport and Industries Pvt. Ltd.

3. On receipt of the petition, notice was served upon the respondents and the respondents entered appearance and having filed counter affidavit resisted the proceeding. During the course of the proceeding, the learned Counsels for both the parties have submitted that since the dispute therein has been between the brothers, they desired to have the dispute settled –amicably.

4. In view of such developments, this Tribunal has granted several adjournments to facilitate settlement between the parties so that the aforementioned Company Petition could be disposed of on the basis of settlement acceptable to both the parties. In that connection, I find it necessary to reproduce the order passed by this Tribunal in the last occasion on 11-07-2017 which reads as under:

"O R D E R

Date: 11.07.2017

Mr. S. K. Baid, FCS, submits that the dispute between the parties to this proceeding which is the subject matter of it, is going on to be settled very shortly and, therefore, he prays that this proceeding be deferred to an another date.

I have considered such submission having regard to the order, rendered by this Tribunal before and found reason to accept the prayer made by Mr. Baid.

In view of above submission, the matter is ordered to be listed on 25.07.2017 for necessary order."

5. It has, now, been submitted that the persons who are negotiating to settle the dispute between the brothers, desire that the aforementioned Company Petition needs to be withdrawn first so as to help the negotiator to arrive at a mutually acceptable compromise between the parties and that is why, the present proceeding has been initiated by the petitioner seeking the reliefs aforementioned.

6. I have heard the legal representative appearing for the petitioner, although the respondents remained absent today as well as in the last occasion too. However, considering the submissions, advanced by the legal representative of the petitioners and having regard to the materials on record as well as various orders, passed by this Tribunal in C. P. No.06/2016 (T.P. No.23/2016), I am of the opinion that prayer made in the present proceeding on behalf of the applicants/ petitioners is required to be accepted. Accordingly, the prayer is accepted.

7. Resultantly, the I. A. No.30/2017 is allowed.

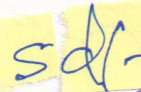
T. P. No.23/2016[arising out of C.P. No.06/2016]

8. In view of the order passed in I.A. No.30/2017 today, this proceeding (T. P. No.23/2016 corresponding to C. P. No.06/2016) is required to be disposed of in terms of the prayer in I. A. No.30/2017.

9. Resultantly, this proceeding stands dismissed on withdrawal, however, with permission to re-file the same, if the situation so demands.

I.A. No.04/2017:

10. In view of the order, passed by this Tribunal in T. P. No.23/2016 (corresponding to C. P. No.06/2016), this proceeding too stands disposed of.



Member (Judicial)

National Company Law Tribunal
Guwahati Bench: Guwahati.

Dated, Guwahati the 25th July, 2017

Deka /25.07.2017