

NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH: GUWAHATI

T.P. No.01/111/397/398/GB/2016
[Arising out of C.P. No.619/2010]

Under Section: 397/398 of the Companies Act, 1956
In the matter of:

Asharam Leasing & Finance (P) Ltd. & others (Substituted by M/s. Prithvi Tea Co. Pvt. Ltd.)	... Petitioners
-versus-	
Doloo Tea Company (P) Ltd. & others	... Respondents

Order delivered on 30th January, 2018

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

For the petitioners	:	Mr. S. K. Medhi, Sr. Advocate Ms. J. Tripathy, Advocate
For the respondents No.1 and 7	:	Mr. G. Khandalia, Advocate

ORDER

Heard Mr. S. K. Medhi, Sr. Advocate assisted by Ms. J. Tripathy, Advocate, appearing for the petitioners. Also heard Mr. G. Khandalia, Advocate appearing for the respondents No.1 and 7. This Bench of the Tribunal on the last occasion has passed the following order on 18th December, 2017: -

"ORDER

Date of Order: 18th December 2017

Mr S.K. Medhi, learned Sr. Advocate, assisted by Ms J. Tripathi & Mr S. Dutta, learned Advocates are present on behalf of the petitioners. Mr A. Banerjee, Mr R. Mullick & Mr G. Khandelia, learned Advocates are present representing the respondent No.1 company. None appears for the remaining respondents.

2. *The Registry of this Bench has informed that pursuant to the directions of this Bench, notices were sent to all the original as well as the newly impleaded respondents and notices were duly served upon as well. However, despite notices having been duly served on all the respondents, except respondent No.1 company, none of the other respondents responded to the notices so sent to them.*

3. *Mr S.K. Medhi also submits that respondent No.2 had committed some other serious illegalities in running the affairs of the respondent No.1 company. However, they were not aware of those illegalities before, since the petitioner got himself substituted in place of the original petitioner only on 30.08.2017.*

4. *According to Mr S.K. Medhi, unless those facts are brought on record the allegations in the present proceeding cannot be adjudicated properly. Therefore, he submits that he may be allowed to*

file an Interlocutory Application seeking incorporation of all those illegalities/irregularities allegedly committed by respondent No.2 in running the affairs of the company in the connected company petition.

5. In that connection, I have also heard Mr A. Banerjee, learned Advocate for respondent No.1 company.

6. The prayer of Mr S.K. Medhi is allowed. The petitioner shall file necessary application within two weeks from today listing all the alleged illegalities/ irregularities in running the affairs of the aforesaid company. In that event, copies of the application as well as the connected documents be served on the non-applicants/respondents for their reply thereto. The non-applicants/respondents may file their reply within two weeks therefrom supplying simultaneously copies thereof to this Bench as well as the applicant/petitioner.

7. Registry will receive such application if the same is filed in accordance with the prescription of law and Rules framed thereunder.

8. List this matter on 30.01.2018.

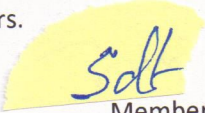
9. In the event of Registry finding the proposed application filed in accordance with law, the application shall also be listed on 30.01.2018."

2. Mr. S. K. Medhi, learned counsel for the petitioners submits that the order dated 18-12-2017 could not be followed since some of the documents could not be collected by the petitioners. However, on getting all the documents, they have filed an application as directed by this Bench on 25-01-2018 with the Registry, but the Registry has not processed the same, since the said application was not filed within the time limit specified by this Bench and is not placed before this Bench today. However, in terms of the requirement under Rule 23 (5) of NCLT Rules, 2016, the copies of the application have already been sent to the respondents.

3. According to Mr. Medhi, learned counsel for the petitioner, the respondents No.1, 7 and 10 have also received the same. It is not known whether the copy of the application sent to the other respondents have been received or not, although the same have been sent with registered post on 25-01-2018. Mr. Medhi has however, submits that he may be allowed to file an application seeking extension of time to the petitioners, as required under Rule 53(16) of the NCLT Rules, 2016 and, therefore, he prayed that ten days' time may be granted for the same.

4. In that connection, I have also heard Mr. Khandalia, the learned counsel appearing for the respondents No.1 and 7. On hearing both the parties, the petitioner is granted ten days' time for filing application for extension of time. On submission of the application by the petitioners, the Registry will examine the same and thereafter, place the same before the Bench.

5. In case, the application so filed by the petitioners, is found to be as per prescription of law, the Registry would fix the matter on 15th February, 2018 for further orders.


Member (Judicial)
National Company Law Tribunal
Guwahati Bench: Guwahati.

Dated, Guwahati, the 30th January, 2018
DeKa/30-01-2018