

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH

C. P. NO. 23(ND)/2011

PRESENT: SMT. INA MALHOTRA
HON'BLE MEMBER(J)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING BEFORE NEW DELHI BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 17.10.2017.

NAME OF THE COMPANY: M/s. MMTC Ltd. V/s. M/s. Indian Commodity Exchange Ltd.

SECTION OF THE COMPANIES ACT: 397/398

S.NO.	NAME	DESIGNATION	REPRESENTATION	SIGNATURE
	For the Petitioner (s)	: Counsel for the Petitioner.		
	For the Respondent (s)	: Mr. Chetan Sharma, Sr Advocate with Mr. Abhishek Singh, Mr. Prithvi Sidhu and Ms. Saloni Sharma, Advocates for R2		
		Ms. Sonal Gupta and Ms. Tanya Chaudhary, Advocates for R1		
		Mr. Devinder Kumar, R.P. Vats for R3		

ORDER

The application being CA No. 155 of 2016 has been filed by the Petitioner praying for amendment of the main petition.

The Ld. Counsel for the Petitioner submits that in view the subsequent events and in terms of order dated 10.4.2016, they have filed the present CA.

The amendments prayed for in the petition are primarily threefold. The first arises on account of the change of the AR. The second is with respect to the change of equity holding of the Petitioner in the Respondent company during pendency of the case, which is not a point of grievance. These two amendments shall be taken note of and are not very material for the purpose of adjudicating the prayer. It is with respect to the third amendment to which

there is vehement opposition. This amendment is to incorporate an interim report for the period 2010-2011 and the subsequent year.

It is submitted that taking this report into account shall change the very nature of the petition.

The scheme of disposal of petitions u/s 241-242 of the Companies Act, 2013, does not provide for petitions to be amended. Due notice of subsequent facts can be taken into consideration even at the time of final arguments, provided they are relevant for the purpose of adjudicating the prayer made in the petition. Accordingly, if the subsequent event or the report has any bearing on the facts of the case, the Petitioner can be permitted to file an affidavit. The Respondents shall be granted due opportunity to meet it, but the application seeking amendment of the company petition itself which was filed in 2011 cannot be permitted at this final stage, relegating it to the position of filing it de novo.

To come up for final arguments on 23.1.2018 in the main petition and all pending CAs including objections on grounds of maintainability before this forum.

1
—S. Malhotra
(Ina Malhotra)
(Member (J))