

**NATIONAL COMPANY LAW TRIBUNAL  
GUWAHATI BENCH**

I.A.No.02/2016

&

I.A.No.03/2016

In

TP No.22/2016 (C.P.No.205/2015)

Under Section 397/398 of the Companies Act, 1956

In the matter of

Ram Swaroop Joshi & Ors.

...Petitioners

-Versus-

Buildworth Pvt. Ltd. & Ors.

... Respondents

**Coram:**

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

.....

**ORDER**

**Date of hearing: 26<sup>th</sup> October 2017.**

I.A.No.02/2016

Heard Mr D. Ghosh, learned Sr. Advocate assisted by Mr S. Chakraborty, learned Advocate, for the applicants/petitioners. Also heard Mr K. Goswami and Mr R. Sarmah, learned Advocates representing the non-applicants/respondents.

2. This Tribunal, in the course of the proceeding on 18.11.2016, directed the non-applicants/respondents to furnish the statement of accounts pertaining to the company to the applicants/ petitioners for their information and necessary action. Mr K. Goswami, learned Advocate for the non-applicants/respondents submits that, in terms of the order dated 18.11.2016, the statement of accounts had already been furnished to the applicants/petitioners.



3. However, Mr D. Ghosh, learned Sr. Advocate for the applicants/petitioners, submits that the statement so furnished does not meet the directions, rendered in the order dated 18.11.2016 since all the documents, directed to be furnished to the applicants/petitioners were not handed over to the later. He, therefore, prays this Bench to direct the non-applicants/respondents to furnish the detailed draft balance sheet of the company immediately. The learned Advocate for applicants/petitioners further submits that he needs to see the primary documents including the tally accounts for taking further necessary action from his end.

4. Such a prayer is, however, objected to by the learned Advocate for the non-applicants/respondents stating that at no point of time the applicants/petitioners had prayed the company seeking those documents. But if the applicants/petitioners so feel, they may approach the company with proper application seeking such documents and in that event, the company will consider such application in accordance with law and rules framed thereunder and then render necessary order thereon.

5. Mr K. Goswami further submits that the next Board meeting is going to be held on 02.11.2017 and the applicants/petitioners may approach the company on the date aforesaid and may make necessary representation in regard to the prayer which they made before this Bench today.

6. However, Mr D. Ghosh, learned Sr. Advocate submits that the applicant/petitioner No.1 would be out of the State and will be returning only in the 2<sup>nd</sup> week of November 2017 and, therefore, it would not be possible for the applicant/petitioner No.1 to approach the Board of Directors of the company on 02.11.2017.

7. On consideration of the submissions, advanced from the side of parties hereto, I feel it necessary to direct the applicants/petitioners to file written application before the company before his leaving the State and in that event, as submitted by the learned Advocate for the non-applicants/respondents, the later would, consider the same in accordance with law and pass necessary order thereon giving detailed reasons thereof in the event of rejection of such application.



I.A.No.03/2017

8. Heard Mr K. Goswami and Mr R. Sarmah, learned Advocates for the applicants/respondents. Also heard Mr D. Ghosh, learned Sr. Advocate and Mr S. Chakraborty, learned Advocate for the non-applicants/petitioners.

9. Mr K. Goswami, learned Advocate for the applicants/respondents submits that he has filed an affidavit before the Registry of this Bench but the same was not accepted by the Registry stating that the matter is in stage of hearing and without permission of the Bench, it is not possible for the Registry to accept the same.

10. By the aforesaid affidavit, the applicants/respondents have prayed for bringing on record the Board Resolution of 05.08.2015, which, according to Mr Goswami, has huge bearing in the outcome of proceeding in hand as well as the connected company petition.


11. Mr D. Ghosh, learned Sr. Advocate for the non-applicants/petitioners submits that he has no objection in bringing on record the aforesaid Board Resolution but he may be given a chance to file objection disputing the contents of the affidavit. Mr Ghosh, therefore, prays for some time to file such objection.

12. On the hearing the learned Advocates for the parties, the matter is adjourned as prayed for. The non-applicants/petitioners are, however, directed to file the reply/objection to the aforesaid affidavit at least one week ahead of the next date supplying simultaneously copy thereof to the applicants/respondents.

T.P.No.22/2016

13. Mr D. Ghosh, learned Sr. Advocate and Mr S. Chakraborty, learned Advocate are present for the petitioners. On the other hand, Mr K. Goswami and Mr R. Sarmah, learned Advocates represent the respondents.

14. In view of the order passed in I.A.No.02/2016, this proceeding stands adjourned to 24.11.2017 for simultaneous hearing with the other connected proceedings.



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