

**NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH**

T.A.No.34/2016 (C.A.No.461/2015)

&

M.A.No.02/2017

In

T P No 07/2016

(C P No.969/2012)

Under Section 397/398 of the Companies Act, 1956

In the matter of:

Gomukhi Constructions (P) Ltd. ... Petitioners

-Versus-

North East Shuttles (P) Ltd. ... Respondents

Date of Order: 24th July 2017

Coram:

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

For the petitioners: Mr S.K. Gupta, Sr.PCS,
Mr N. Sharma, PCS

For the respondents: Mr S. Dutta, Advocate
Mr H. Das, Advocate
Mr A. Saha, Advocate
Mr I. Saha, Advocate

.....

ORDER

T.A.No.34/2016 (C.A.No.461/2015)

Mr S.K. Gupta, Sr. PCS & Mr S. Sharma, PCS are present on behalf of
the applicant/petitioner.

2. Mr S. Dutta, learned Advocate for the respondent Nos.1&2 is present and submits that he has got instructions not to appear before this Tribunal on behalf of respondent Nos.1&2 any longer. Mr Dutta, therefore, wants to withdraw from the present proceeding as counsel for respondent Nos.1&2.

3. On hearing Mr Dutta, I allow his prayer and accordingly, Mr Dutta stands relieved from the present proceedings as counsel for respondent Nos.1&2.

4. Mr A. Saha, learned Advocate represents Non-applicant/respondent No.1 and Mr H. Das, learned Advocate is present on behalf of Non-applicant/respondent No.4. On the other hand, Mr I. Saha, learned Advocate represents non-applicants/respondent Nos.1&4.

5. Mr I. Saha, learned Advocate for non-applicants/respondent Nos.1&4 submits that the management of the respondent No.1 company has undergone drastic change and as such, he needs some time to get instructions from the management of the aforesaid respondent No.1 company regarding the enforcement of the order passed by CLB, Kolkata on 14.11.2014 in C.P.No.969/2012 (corresponding to T.P.No.07/2016. In that connection, he has produced some documents too.

6. Such a contention was objected to by Mr S.K. Gupta, Sr. PCS stating that in the present proceeding, this Tribunal is required to enforce the order of CLB, Kolkata rendered on 14.11.2014 in C.P.No.969/2012. But since then, much water has flown down the river Hooghly and the Brahmaputra but nothing tangible has been done from the side of the respondents in helping this Tribunal in the matter of enforcement of the aforesaid order of CLB, Kolkata.

7. Referring to various provisions of the Companies Acts of 1956 and 2013, Mr Gupta further submits that this Tribunal has enough power and jurisdiction to direct enforcement of the order passed by CLB, Kolkata. Of course, in appropriate cases, it can also take the help of Civil Courts having jurisdiction over the matter in regard to enforcement of its orders. In support of such contention, the decisions of Hon'ble Bombay High Court in the case of Chemosyn Ltd. & Others vs. Unmesh Kantilal Shah and others reported in (2006) 134 Comp Cas 527 (Bom) and decision of the Hon'ble Apex Court in Manish Mohan Sharma & Others vs. Ram Bahadur Thakur Ltd. & Others reported in (2006) 131 Comp Cas 149 (SC) are relied on.

8. Mr Gupta, further, submits that the proceeding in hand is one where this Tribunal is duty bound to enforce the order of CLB, Kolkata, rendered on 14.11.2014 in C.P.No.969/2012 without any delay whatsoever. A bare perusal of various orders, rendered in the present proceeding as well as in the connected proceeding would make it more than clear. Therefore, he urges this Tribunal to appoint a special officer so as to help this Tribunal in enforcing the order of CLB, Kolkata as early as possible as indicated in the order passed by it on the last occasion.

9. In that connection, I have also heard the learned counsel for respondent Nos.1&4.

10. Mr I. Saha, learned Advocate for non-applicants/respondent Nos.1&4, however, submits that he needs some accommodation so as to get further instructions from the management of the company so that the matter regarding enforcement can be settled without any further delay.

11. On hearing the learned counsel for the parties, I find it necessary to reserve the order regarding appointment of special officer to help this Tribunal in enforcing the order of CLB, Kolkata dated 14.11.2014.

M.A.No.02/2017

12. Mr S.K. Gupta, Sr. PCS & Mr N. Sharma, PCS represent the applicant/petitioner.

13. Mr I. Saha, learned Advocate for non-applicants/respondent Nos.1&4, Mr A. Saha, learned Advocate for non-applicant/respondent No.1 and Mr H. Das, learned Advocate for the non-applicant/respondent No.4 pray for some time to file reply to the allegations made in this proceeding.

14. Such a prayer is objected to by Mr Gupta, Sr. PCS stating that enough time has been granted by this Tribunal by its various orders but the directions in those orders have never been complied with by the non-applicants/respondents. Therefore, they have forfeited the right to file reply.

15. I have heard the parties at length. Since serious allegations have been made against the non-applicants/respondents, in the interest of justice, three days' time is granted to the non-applicants/respondents to file their reply against the

allegations made, simultaneously supplying copies thereof to the other side. The applicant/petitioner, if so advised, may file rejoinder thereto within three days therefrom supplying simultaneously copies thereof to the other side.

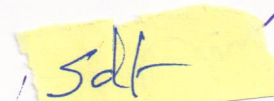
16. Mr S.K. Gupta, Sr. PCS has alleged that the non-applicants/respondents have resorted to more and more irregularities aimed at frustrating the final order passed by CLB, Kolkata on 14.11.2014 in C.P.No.969/2012. According to Mr Gupta, the applicant/petitioner came to know of all those illegalities/irregularities only recently.

17. That being the position, the applicant/petitioner is directed to submit all that additional information under an affidavit supplying simultaneously copies thereof to the other side within a period of seven days from today. The non-applicants/respondents may also submit reply thereto within a period of 3 days therefrom supplying simultaneously copies thereof to the applicant/petitioner.

18. Learned Advocates for the non-applicants/respondents have also prayed that some time may be given to submit the statement of accounts for the period from 2012 to 31.03.2017. Prayer is allowed.

19. The aforesaid statement of accounts shall be furnished within a period of seven days from today.

20. List this matter on 01.08.2017.



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

nkm