

ATTENDANCE-CUM-ORDER SHEET OF HEARING

**NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH**

TP No. 25/397/398/GB/2016 (CP NO. 992/2011)

Deba Kumar Hazarika & Ors

- Petitioners

-Versus-

M/s. Assam Chemical & Pharmaceutical Pvt. Ltd and Ors. - Respondents

Present :

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

Date of hearing : 12.01.2017

Name of the Company	
Under Section	397/398

Sl. No.	Name & Designation of Authorized Representative (IN CAPITAL LETTERS)	Appearing on behalf of	Signature with date
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ORDER

Heard Mr. A. K. Roy, FCS, appearing for respondent Nos. 3 and 4 who submits that the advertisement dated 01-11-16 in the Sentinel is not in accordance with the directions of Hon'ble Gauhati High Court, rendered in Co.Appl. No. 3/2014 on 09.05.2016. Therefore, Mr. Roy submits that the petitioners may be required to



make fresh paper publication stating that parties having interest in the dispute(s) in the present proceeding may appear before this Court and contest the claim(s) of the petitioners herein.

According to Mr. Roy, FCS, the paper publication dated 01-11-16 did not give any information about the dispute(s) in the proceeding in hand. Nor did it give any idea that the matter aforesaid would be heard by the NCLT, Guwahati Bench, Guwahati. Being so, the parties interested in the dispute in the present proceeding may not be in a position to appear before this court to contest the claim of the petitioners herein.

Such contention was opposed to by Mr. A.K. Shrivastava, the learned counsel for the petitioners stating that the advertisement was made strictly in accordance with direction of the Hon'ble High Court, rendered in the order dated 9.5.2016 and therefore, this court may not be pleased to require the petitioner to make a fresh advertisement as prayed for by Mr. A.Roy.

In order to understand such contentions, I find it necessary to peruse the relevant part of the order aforesaid as well as the paper publication dated 01-11-16.

For ready reference, the relevant part of the order dated 09.05.2016 as well as paper publication dated 01-11-2016 are reproduced below:-

" In the light of the above discussion, impugned order of the Company Law Board dated 20.03.2014 cannot be sustained and is accordingly set aside and quashed. Matter is remanded back to the Company Law Board, Kolkata Bench for fresh decision on merit in Company Petition No.992/2011. As a measure of abundant caution, appellants may be permitted to issue newspaper advertisement to bring it to the notice of the allottees of 6715 equity shares of the company about Company Petition No.992/2011 to be heard afresh by the Company Law Board, Kolkata Bench. Consequently, the questions of law framed except question Nos. 3, 4 and 5 are returned unanswered awaiting adjudication on merit. In view of the foregoing discussions question Nos. 3, 4 and 5 are answered in the affirmative, negative and in the affirmative respectively.

Company petition accordingly stands allowed to the above extent. No cost".

"NOTICE

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL, (NCLT), GUWAHATI
C.P.No. 992/2011
(Registered in NCLT, Guwahati as TP/25/397-398/GB/2016)

Deba Kumar Hazarika & ors

AND

.....Appellants

Assam

Chemical & Pharmaceutical Pvt. Ltd & Ors.Respondents

Kindly take notice that Hon'ble Gauhati High Court vide its Final Judgment & Order dated 09.05.2016 after setting aside the Order dated 20.03.2014 passed by the Id. Company Law Board, Kolkata Bench remanded the same for de novo hearing as per the terms set out by the Hon'ble Gauhati High Court in the aforesaid order.

Kindly take note that the Hon'ble Gauhati High Court had also directed for general publication for all concerned before the commencement of the hearing of the aforesaid Petition before the Hon'ble National Company Law Tribunal, Guwahati.

Also, take note that the aforesaid matter may be taken up for hearing on 03.11.2016 or at any other date fixed as per the discretion of the Hon'ble National Company Law Tribunal, Guwahati.

*For & on behalf of the Petitioners
Deba Kumar Hazarika"*

On perusal of the paper publication in the light of directions in the order dated 9.5.2016, I have found that the advertisement dated 1-11-16 in substance satisfies the directions contained in the order aforesaid and as such, there is no necessity to require the petitioner to go for same exercise once again. The fact that some of the allottees, who allegedly acquired shares in the company in question illegally, had already entered appearance in pursuance to the publication aforesaid, makes such conclusion inevitable.

In view of above finding, prayer made by the applicants seeking re-publication of notice dated 01.11.2016 is found wholly without merit and same is accordingly rejected.

Also heard Mr. A. Das, learned counsel appearing for some of the allottees of shares. Mr. Das submits that he has filed application(s) seeking impleadment of applicants therein as respondents in the company petition. However, said application(s) have not yet been registered. It has been submitted by the learned counsel for the applicants that copies thereof have already been furnished to the counsel for the petitioners.

Similar submission was made by Mr. K.Rahman, learned counsel appearing for 2 of the allottees of shares seeking their impleadment in the connected company petition. Since the applications are not before this Bench today, list the matter on 17.02.2017.



Since the applicant(s) have already furnished the copies of the application along with other necessary documents to the non-applicants/petitioners, the petitioners, if so advised, may file reply to the application at least one week ahead of the next date.



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

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