

**IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH**

CA 1/2015
IN
T.P. 72/2016 IN CP 18/2015

UNDER SECTIONS 397 & 398, 235, 237,
402, 403 & 408 OF THE COMPANIES ACT, 1956

**IN THE MATTER OF
M/S PRISHA CORPORATE SERVICES PRIVATE LIMITED**

Order Delivered on 8th day of January, 2018

CORAM: SHRI RATAKONDA MURALI, MEMBER JUDICIAL
SHRI ASHOK KUMAR MISHRA, MEMBER TECHNICAL

For the Petitioner(s) : Sri A.M.Sridharan, PCS

For the Respondent(s): Sri ~~B. Prasad~~, Advocate

Per: Hon'ble Shri Ashok Kumar Mishra, Member (Technical)

Vijay Kashyap R. Adv R3 & R3
Sri R. Krishnamurthy, Adv R3 & R3
Amil

BETWEEN :

Mr. Prem Anand
B504, Century Celeste Apartment
#14/2 Jakkur Village, Yelahanka Hobli
Bengaluru – 560 064

... Petitioner

AND

1. M/s Prisha Corporate Services Private Limited
101, 1st Floor, Soundaraya Paramount
Plot No.83 & 87, 5th Cross
Malleshwaram, Bengaluru -- 560 003

2. Mr. Dabbe Narasimha Bhatta Vishwanath
#19, "ANUGRAHA", 15th Cross
2nd Main, Shrinidhi Layout
Near to AGS Layout, Bengaluru - 560 061

3. Smt. Krishnamurthy Mahalakshmi
No.100, "Rishika", 8th Cross Down
Malleshwaram, Bengaluru -- 560 003

.... Respondents

Heard on: 12.04.2017, 12.06.2017, 25.07.2017, 30.08.2017, 09.10.2017, 14.11.2017,
18.12.2017, 08.01.2018

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ORDER

CA No.1/2015 was originally filed before the Company Law Board and the same was transferred to this Bench and renumbered as TP No.72/2016 in CP No.18/2015.

This application is filed by the petitioner under Section 403 of the Companies Act, 1956 read with Regulation 44 of the Company Law Board Regulations with a prayer to direct the 2nd respondent to hand over the books of account, vouchers and every other document of the company to the Statutory Auditor in the presence of an Independent Observer. Though the Company Law Board had earlier by its order dated 19.11.2015 directed the respondents to produce all the records of the company before the Bench Officer of the Company Law Board on any working day from 23.11.2015 to 27.11.2015, the 2nd respondent had not done so. The petitioner submits that the 2nd respondent subsequently produced certain records of the company to the Bench Officer of the Company Law Board and the Company Law Board by its order dated 21.01.2016 permitted the applicant's Advocate to inspect the records on 29.01.2016 at 4.30 p.m. A copy of the said order is annexed herewith as Annexure-A-39.

The applicant-petitioner further submits that the authorised representative and practising company secretary of the applicant inspected the records submitted by the 2nd respondent on the above date at the specified time and furnished the list of records submitted by the 2nd respondent to the Bench Officer and a copy of the records so produced is annexed herewith as Annexure-A40.

It is the further contention of the applicant that the respondent No.2 did not produce any records of the company maintained at its registered office at Bengaluru and at the branch office at Hyderabad. The applicant further submitted that no bank accounts have been submitted. A list of the documents not produced is annexed herewith as Annexure-A41. The

applicant further submits that the company has not finalised the Balance Sheet and Profit and Loss account for the year ended 31.03.2014 and the audit of accounts of the company for the financial year 2013-14 is also not completed. He submits that the production of records mentioned in Annexure-A41 is absolutely essential for finalisation of the Balance Sheet as at 31.03.2014 as well as the profit and loss account and to complete the audit thereon. Therefore, the applicant prays this Tribunal:

- (a) To direct the 2nd respondent to produce the records/soft copies mentioned in Annexure-A41; and
- (b) Such other reliefs as deemed fit in the interest of justice.

In response to the averments made by the applicant in the application, the 2nd respondent has filed its objections denying every allegation made against them and submit that the application is neither sustainable on law nor on facts as the prayer of the applicant is to hand over the books of accounts, vouchers and every other document of the company to the statutory auditor in the presence of any independent observer. The respondents submit that the Company Law Board after hearing both sides on 19.11.2015 directed the respondents to produce all the records before the Bench Officer on any working day from 23.11.2015 to 27.11.2015. Since the respondents were unable to produce the records of the company due to personal inconvenience/floods within specified time and therefore wrote a letter on 26.11.2015 stating their difficulty in producing the records.

The 2nd respondent submits that thereafter on 18.12.2015 all the records were produced before the Bench of the Company Law Board. The copy of the letter dated 26.11.2015 and acknowledgement dated 18.12.2015 are produced as Annexures-R1 and R-2 respectively. The 2nd respondent submits that since CA No.1/2015 was closed on production of records, the applicant cannot file another application CA No.1/2015 before this Tribunal

praying for the same relief. The 2nd respondent also submits that the applicant has not come to this Tribunal with clean hands and he has wilfully suppressed material facts and is trying to mislead the Tribunal in this application. It is his further contention that all the records are available with the petitioner and the petitioner himself has given all the records mentioned in Annexure-A41 to the Statutory Auditor of the company. It is his further submission that the petitioner has not produced the same earlier deliberately and hence this application is misconceived and therefore liable to be dismissed. It is further submitted that the bank accounts are in the custody of the petitioner and it was the petitioner who fraudulently and abruptly stopped the operation of the bank account without intimating the respondents during the month of May 2014. A copy of the acknowledgement given by the IOB is produced as Annexure-R3.

We have heard the learned counsel for the respective parties in CA No.1/2015. As contended by the respondents, the applicant had earlier filed an application CA No.1/2015 before the Company Law Board, Chennai, wherein the Company Law Board had allowed the application and the respondents had produced certain books of accounts. The main prayer of the applicant in the company petition is also for production of books of accounts. The prayer of the applicant in this CA No.1/2015 is also for the same relief i.e., production of books of accounts sought for in the earlier application CA No.1/2015.

After hearing the learned counsel for the parties and perusing the records, it is clear that the petitioner is asking for the same relief over again in this application. Since the relief has already been granted by the Company Law Board in an earlier application CA No.1/2015, this application has to be rejected as the relief has already been granted in an earlier application i.e., CA No.1/2015.



In view of the above, I.A. filed by the applicant-petitioner is liable to be dismissed.

Accordingly, application is dismissed.


(ASHOK KUMAR MISHRA)
MEMBER, TECHNICAL


(RATAKONDA MURALI)
MEMBER, JUDICIAL