

**NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH  
KOLKATA**

C.P. No. 08/2016

CORAM: 1. Hon'ble Member (J) Ms. Manorama Kumari

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING ON 06<sup>th</sup> January, 2017, 10.30 A.M**

Name of the Company		Atul Kumar Sultania & Ors. -Versus- Ghata Balaji Rasayan Sales Pvt. Ltd. & Ors.	
Under Section		<b>241/242</b>	
Sl. No.	Name & Designation of Authorized Representative (IN CAPITAL LETTERS)	Appearing on behalf of	Signature with date

1. RICKY RAY Advocate

Respondent no. 1 &amp; 3

Ricky Ray

06.01.2017

~~2. Koushik Saha~~~~Respondent no. 2 and 4~~~~Koushik Saha~~~~6.1.2017~~

Mainak Bose

Deepnath Ray Choudhury  
Santanu Chatterjee

1. Ratnanku Banerjee, Sr. Adv
2. DN Sharma, Adv.
3. Soisri Roy, Adv
4. B Shrestha Nigam

} Petitioners

Shankar  
Adv  
11/1/17

06-01-2017 – CP No.08/2016- IA-59/2016-IA 02/2017- Atul Kumar Sultania & Ors Vs. Ghata Balaji Rasayan Sales Pvt. Ltd. & Ors.

### ORDER

The Ld. Lawyer on behalf of the petitioner as well as on behalf of Respondent Nos. 1 and 3 are present. The respondent Nos. 2 and 4 are found absent.

One IA Application 59/2016 is pending with a prayer for necessary amendment in the Company petition apart from other reliefs.

Heard the petitioner on IA application No. 59/2016 with the prayer for amendment of the main company petition No. 08/2016 since certain typographical mistakes had occurred in page 34 of the Company Petition in the third last sentence of the said page as well as in prayers(j) and (o) of the final relief and prayers (j) and (o) of the interim relief at pages 41,42,55 and 56 of the company petition, and found that the amendment of the petition is necessary for proper and effective adjudication of the case with allegations of oppression and mismanagement, as detailed in the petition. The proposed amendment would not constitutionally change the nature and character of the petitioner(s)' case in the Company petition and it would also not cause any prejudice to the respondent(s).

Further, if amendments are not allowed, there is every likelihood of multiplicity of the proceeding and refusing the amendment would, in fact, lead to injustice to the applicant. The respondent(s) was also present and they have not objected to the amendment application.

Hence, in view of the prayer made in Interlocutory Application No. 59/2016, the petitioner(s) is allowed to amend the main Company petition as prayed in IA application No. 59/2016 without changing the nature and character of the petition, within a period of 5 days with copy of the amended petition to the respondent.

The respondent(s) are given two weeks' time to file their reply from date of service and further one week's time is allowed to the petitioner to file the rejoinder, if any.

The IA No. 59/2016 is disposed of without costs.

Another Interlocutory application bearing No. 02/2017 is filed by the respondent(s) challenging the genuineness of the affidavit filed by the petitioner(s) in the matter praying for dismissal of the main Company petition. The said IA 02/2017 is filed on 3<sup>rd</sup> January, 2017 after filing of IA 59/2016 on 29<sup>th</sup> November, 2016.





Since the amendment petition bearing IA No. 59/2016 filed by the petitioner on 29<sup>th</sup> November, 2016 is earlier in point of time with that of Interlocutory Application No. 02/2017, hence, in view of allowing the amendment application No. 59/2016, this application bearing IA No. 02/2017, filed with the prayer that the Company Petition No.08/2016 be dismissed as not maintainable and stay of all further proceedings in CP No.08 of 2016 till the disposal of the instant application, is not tenable in the eye of law, as amendment petition has already been allowed.

On allowing of the IA No. 59/2016 for amendment of the main Company petition, the IA No. 02/2017, filed after the filing of IA 59/2016, is not maintainable and hence, is dismissed and disposed of without cost.

Fixing on 08-02-2017.



MANORAMA KUMARI  
MEMBER(J)