I.A. No. 6/2016 in T.P. No. 202/397-398/NCLT/AHM/2016 (New) C.P. No. 4/397-398/CLB/MB/2016 (Old)

NATIONAL COMPANY LAW TRIBUNAL AHMEDABAD BENCH, AHMEDABAD I.A. No. 6/2016

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T.P. NO. 202/397-398/NCLT/AHM/2016 (New) C.P. NO. 4/397-398/CLB/MB/2016 (Old)

CORAM:		SHRI M. K. SHRAWA' MEMBER (JUDICIAL)			
In the matter of Companies Act, Companies Act, 1956.	1956,	Section	397,	398	
Mr. Pinakin Navnitlal Ghadiyali 163, Bhagwan Park, Adajan Road Surat 395 009.			Petiti	oner	
V/s					
 M/s. Touchwood Weaves Pvt. L 4030, Jash Textiles Market, Ring Road, Surat, Gujarat. Mr. Puneet Purshottamlal Bhatia 103, 1st Floor, Neptune 					
Evershine Millenium Paradise Thakur Village, Mumbai 400 10 Maharashtra, India.	1)				
3. Mr. Purshottamlal Bhatia 103, 1 st Floor, Neptune Evershine Millenium Paradise Thakur Village, Mumbai 400 10 Maharashtra, India.	1)				

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4. Ariza Hamid Husain Saiyed)
Sangam Chawl Anand Nagar)
Near Link Road, Nr.r Corner Hotel)
Jogeshwari (W), Mumbai 400 102)
Maharashtra, India.) ... Respondents

PRESENT ON BEHALF OF THE PARTIES:

FOR THE PETITIONER

Mr. Dhiren R. Dave, Practising Company Secretary.

FOR THE RESPONDENTS

None present for the Respondents.

ORDER

Reserved on: 07.12.2016
Pronounced on: 20.01.2017

- 1. Records of the case have revealed that in the past Petitioner / Applicant remained present. However, no one was present from the side of Respondents. Considering the totality of the circumstances, the impugned Application is decided as herein below.
- 2. The Ld. Representative of the Petitioner / Applicant has pleaded that an Order was passed by the NCLT, New Delhi Bench on 16th June, 2016, however, the Respondents have failed to

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comply the directions. Therefore, the Respondents are liable for the Contempt Proceedings. The second argument of the Ld. Representative is that the Petitioner was illegally removed from the Directorship of Respondent No.1 Company. The third relief sought is that a direction should be given to call an AGM of Respondent No.1 Company.

- 3. In the light of the submissions made, I have perused the Application under consideration and few evidences on record. Prima facie it is not a fit case to initiate Contempt Proceedings because the Applicant has not proved to the hilt the nature of the contempt or the reason of non-compliance of the directions. However, the grievance of the Applicant can be redressed if a direction is hereby given to the Respondents to provide statutory records as demanded by the Petitioner within 15 days' time on receipt of this Order. A direction had already been given to the Petitioner in the said Order (supra) to give a list of documents required. Hopefully, the Applicant / Petitioner should have provided the list of documents demanded. In case of failure on the part of the Respondents, the non-compliance should be reported to NCLT, Ahmedabad Bench for consequential action.
- 4. The fourth contention is removal of the Petitioner from Directorship of the Respondent No.1 Company. As per the provisions of Section 167 (1) of the Companies Act, 1956, several circumstances have been enlisted to declare the office of a Director

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as 'vacant'. At this stage, when an interim relief is demanded through this Application, it is not justifiable to adjudicate on this issue which is subjudice and to be decided at the time of disposal of the main Petition. At this juncture, the purpose shall be served if directed to complete the pleadings as early as possible so that the main Petition can be heard and finally decided in near future.

The fifth grievance is non-convening of AGM of Respondent No.1 Company. As per the provisions of Section 96 of Companies Act, 2013, it is mandatory for a Company to hold a meeting as its Annual General Meeting by issuing a Notice specifying the time, date and venue of meeting which shall not be more than 15 months from the date of last AGM. Since it is a mandatory requirement, every company is under strict statutory obligation to hold an Annual General Meeting within the time prescribed under the Act. Only after holding AGM the other statutory compliances can be made such as approval of the annual accounts. I, therefore, deem fit to direct Respondent No.1 Company to issue Notice to all the Directors Shareholders, including the Petitioner, for calling the Annual General Meeting by specifying the time, date and place of the meeting. The Respondent No.1 Company shall keep the evidence of proper service of Notice to all the concerned and the record of Minutes of the Meeting. It is hereby directed that the AGM should be held within 30 days from the date of receipt of this Order.

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- 6. It is expected, rather directed, that the due compliance should be made by the concerned parties before the next date of hearing. Let the C.P. be fixed for hearing on **6**th **March**, **2017**.
- 7. The I.A. No. 6/2016 is disposed of finally with no Order as to costs.

Dated: 20.01.2017

M.K. Shrawat Member (Judicial)

Mushauser