

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL

HYDERABAD BENCH, AT HYDERABAD

CA No. 38 of 2016

In

CP No. 42 of 2011

(TP No.51/HDB/2016)

**CERTIFIED TO BE TRUE COPY
OF THE ORIGINAL**

Date of Order: 3.11.2016

Between:

1. Malaxmi Infra Ventures (India) Pvt. Ltd.

Malaxmi Courtyard, Sy. No. 157,

Khajaguda Village, Golconda Post,

Hyderabad 500008,

Rep by its Authorized Signatory Y. Harish Chandra Prasad.

2. Mr. Y. Harish Chandra Prasad

S/o Sreeramalu, aged about 56 Years,

R/o Villa-A14, Lake Community,

Boulder Hills, Opp. Microsoft

Gachibowli, Hyderabad-500032.

...Applicants/Petitioners

And

1. Brahmani Infratech Private Limited

6-3-1109/1, Nava Bharat Chambers,

Raj Bhavan Road, Hyderabad-500082.

2. Mr. Devineni Ashok

6-3-1109/1, Nava Bharat Chambers,

Raj Bhavan Road, Hyderabad-500082.

3. Mr. Gorthi Ramakrishna Prasad
6-3-1109/1, Nava Bharat Chambers,
Raj Bhavan Road, Hyderabad-500082.
4. Mr. Pinnamaneni Trivikrama Prasad
6-3-1109/1, Nava Bharat Chambers,
Raj Bhavan Road, Hyderabad-500082.
5. Mr. Malempati Venu Gopal Rao
6-3-1109/1, Nava Bharat Chambers,
Raj Bhavan Road, Hyderabad-500082.
6. Nava Bharat venture Limited
6-3-1109/1, Nava Bharat Chambers,
Raj Bhavan Road, Hyderabad-500082.
7. Mantri Technology Parks Pvt. Ltd.
Mantri House No. 41, Vittal Mallya Road,
Bangalore-560001, Karnataka
8. Mr. Sushil Mantri
Mantri Technology Parks Pvt. Ltd
Bangalore-560001
9. Mr. Sanjay Omkarnath Malpani
Brahmani Infratech Pvt. Limited
6-3-1109/1, Nava Bharat Chambers,
Raj Bhavan Road, Hyderabad-500082.
10. Mr. Rajesh Omkarnath Malpani
Brahmani Infratech Pvt. Limited
6-3-1109/1, Nava Bharat Chambers,



Raj Bhavan Road, Hyderabad-500082. ...Respondents/Respondents

Counsel for Applicants:

Mr. M.V. Pratap Kumar

Counsel for the Respondents:

Mr. Y. Suryanarayana

CORAM

Mr. Rajeswara Rao Vittanala, Member (Judicial)

Mr. RaviKumar Duraisamy, Member (Tech)

ORDER

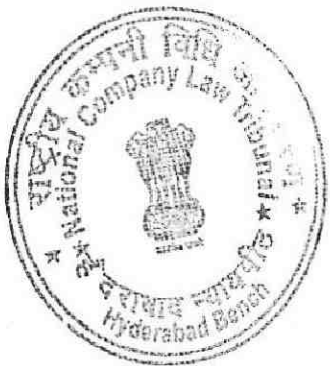
[As per Rajeswara Rao Vittanala, Member (J)]

1. The Tribunal dismissed CP No. 42 of 2011 by an order dated 07.10.16 for non-prosecution of the case by the petitioners. Aggrieved by the said order, the present Company Application bearing No. 38 of 2016 has been filed under Rule 48 r/w Rule 11 of National Company Law Tribunal Rules, 2016 by the petitioner of main CP No.42 of 2011 by interalia praying the Tribunal to set aside its order dated 07.10.2016 and restore CP No.42 of 2011.
2. Shri M.V.Pratap Kumar, the Learned counsel for the applicants submit they have received files from the previous counsel at Chennai and, their Chief Financial officer, who was dealing with the case suddenly left the company and, thus they could not prosecute the case . They have not received the notice sent by the Tribunal as they have changed their address mentioned in the Company petition and, the same was also



indicated in the rejoinder filed by the applicants/petitioner. The learned counsel further submit that it is the bonafide mistake in not attending the Tribunal on the listed dates and, the same is neither wilful nor wanton. And they are committed to prosecute the Company petition and, thus they prayed the Tribunal to set aside the order dated 7.10.16 and restore CP No. 42 of 11 on file of Tribunal to hear the case on merits.

3. Shri Y.Suryanarayana, the learned Counsel for the Respondents on the other hand, has seriously opposed the application and submit that the petitioners are not at all diligent in prosecuting the case even before CLB and his clients are put to severe disadvantage by virtue of the present litigation pending for about 5 years. Therefore, he has prayed the Tribunal to dismiss the present application with costs.
4. It is not in dispute that the case is pending since 2011 and several adjournments were granted by the CLB/NCLT. It is an accepted saying that justice delayed is justice denied. So cases should be disposed of as expeditiously as possible. So it is the responsibility of litigants to co-operate with the Bench to decide cases as early as possible. The objects of New Companies Act, 2013 and the rules framed thereon also ordain that NCLT should decide cases within 90 days period of time.
5. Since the NCLT is formed recently, several litigants may also not be aware of constitution of NCLT Bench at Hyderabad and, the transfer of



cases pending in CLB, Chennai to Hyderabad Bench. Hence, we are inclined to allow the present application subject to payment of costs to the respondents.

In the result, CA No. 38 of 2016 is allowed by setting aside the order dated 7.10.2016 and restored CP No.42 of 2011 on the file of NCLT to decide the case on merits. However, the Petitioner is directed to pay Rs. 3000/- as costs to the Learned counsel for the respondents within a week from the date of receipt of copy of this order and submit a receipt in the Registry. CP No. 42 of 11 is directed to post on 29.11.2016 for final hearing and we make it clear that no further adjournment shall be granted on any ground.

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Sd/-

Sd/-

RAVIKUMAR DURASAMY

RAJESWARA RAO VITTANALA

MEMBER (TECH)

MEMBER (JUDL)



V. Annapoorna
V. ANNA POORNA
Asst. DIRECTOR
NCLT, HYDERABAD - 68