

IN THE NATIONAL COMPANY LAW TRIBUNAL,  
DIVISION BENCH, CHENNAI

CP/11/2016

Under Section 241 of the Companies Act 2013

In the matter of

**Dr.P.Rajagopalan**

**Vs.**

**M/s.Aidees Electronics Pvt. Ltd. & 3 others**

Order delivered on 4<sup>th</sup> December, 2017

CORAM

**CH.MOHD.SHARIEF TARIQ, MEMBER (JUDICIAL)**

**S.VIJAYARAGHAVAN, MEMBER (TECHNICAL)**

*For Petitioners : M/s.A.V.Arun & R.Sidharth*

*For Respondents : M/s.Menon, Karthik, Mukundan &  
Neelakantan*

ORDER

**Per: S.VIJAYARAGHAVAN, MEMBER (TECHNICAL)**

**Particulars of the Petitioner:**

The petitioner is Dr.P.Rajagopalan, Son of Parthasarathy, aged about 86 years and residing at Chennai.

**Particulars of the Respondents:**

The first respondent is M/s.Aidees Electronics Pvt. Ltd. a Company Registered under the Companies Act, 1956 having office at No.456, R.K.Shanmugam Salai, K.K.Nagar, Chennai- 600 078.

The second respondent is Ms.Shankunthala Gopalan, Director of M/s.Aidees Electronics Pvt. Ltd. residing at Chennai.

The third respondent is Ms. Aarthi Gopalan, Director: M/s.Aidees Electronics Pvt. Ltd. residing at Chennai.

The fourth respondent is M/s.SP Engineers Auto Tech Pvt. Ltd. Company registered under the Companies Act 1956, at No.456, R.K.Shanmugam Salai, K.K.Nagar, Chennai - 600 078.

**The petitioner submitted as follows:**

1. The First Respondent is a Company registered under the provisions of Companies Act 1956. The Company was promoted and incorporated by one Mr.P.Gopalan and it was basically a family concern consisting of the above said Mr.P.Gopalan, his two brothers along with their father who were the original subscribers. The said Mr.P.Gopalan was the Managing Director of the Company and the Company was formed for the purpose of carrying on the business of manufacture, distribution and trade of Electronics systems and units.

2. The 1<sup>st</sup> Respondent Company got allotment of an Industrial Plot from the Government to set up its own manufacturing unit to manufacture Electronic systems in the Electrical Industrial Estate at Kakkalur. Though the company

could obtain the industrial Plots for constructing the manufacturing unit thereon, it did not have sufficient funds for the same.

3. The 1<sup>st</sup> Respondent company was not doing well and hence did not have sufficient funds to construct the factory in the subject plots. In 2007, the 1<sup>st</sup> Respondent Company received a notice from the Government of Tamil Nadu warning that if the factory was not constructed on the subject plots within one year, the assignment of plots to the company would be cancelled. Hence, the then Managing Director of the 1<sup>st</sup> Respondent Company, Mr. P.Gopalan was looking for funds. In that context, he approached the Petitioner, who was his relative and sought financial assistance in addition to the financial assistance for a sum of Rs.6,50,000/- (Rs. Six Lakhs and Fifty Thousand Only) extended to him by the Petitioner in 2003 because the first Respondent Company was facing financial crisis.

4. The petitioner submits that he was convinced by the Managing Director of the 1<sup>st</sup> Respondent Company that it had been assigned Industrial Plots in the Kakkalur Industrial Estate,

but 1<sup>st</sup> Respondent Company could not construct the factory at that site due to paucity of funds and if the factory building was not constructed within one year, the property would revert to the Government of Tamil Nadu. Explaining all these facts and circumstances the said Managing Director requested for financial assistance from the Petitioner in the year 2007.

5. According to the Petitioner, he wanted some safeguard for his investment and a decent return therefor. Accordingly, taking note of the following proposals made by the Managing Director of the first Respondent, the petitioner agreed to invest his money in the Company.

a. The Petitioner would invest a sum of Rs.13,00,000/- in the 1<sup>st</sup> Respondent Company by way of Share Capital.

b. The Petitioner would be made the Chairman, that is, the titular head of the Company.

c. He would be paid Rs.20,000/- per month as Chairman.

d. But he would not be burdened with the running or day-to-day operations of the Company.

6. So, after discussions, a Memorandum of 



Understanding dated 25.06.2007 was entered into between the Petitioner and the then Managing Director of the first respondent company. Discussions in this regard took place and the said agreement was brought about in the presence and under the guidance of the Chartered Accountant of the 1<sup>st</sup> Respondent Company. He, therefore, witnessed the said Memorandum of Understanding dated 25.06.2007. Thus the petitioner became the investor and the share holder of the first Respondent company.

7. According to the petitioner, in the fulfilment of the above agreement, the Petitioner invested a sum of Rs.13,00,000/- in the Respondent Company in addition to the loan advanced during the year 2003. The 1<sup>st</sup> Respondent in turn, made payments of Rs.20,000/- per month till September, 2008 and thereafter stopped the payments. When the Petitioner took up this matter with the Managing Director, he sent a letter dated 27.03.2010 informing that he had found a prospective buyer for the Petitioner's shares at the price paid for by the Petitioner and also to pay interest for the amount invested at the rate of 8% p.a. However the said promise was never fulfilled as per the understanding.

8. According to the petitioner upon the demise of the said

P.Gopalan, on 23.11.2010, the then Managing Director, the 2<sup>nd</sup> Respondent along with her son Sarath Gopalan, took charge of the 1<sup>st</sup> Respondent Company. When the petitioner approached them with a request to return the money invested by him, they promised to look in to the matter and revert soon.

9. The Petitioner, having waited for nearly 3 months for a reply, issued a notice dated 28.02.2011 to the 2<sup>nd</sup> Respondent and her son in the capacity of Chairman of the 1<sup>st</sup> Respondent Company. This belief of the Petitioner was refuted by them vide their reply dated 23.03.2011.

10. The Petitioner thereupon obtained copies of the Records of the 1<sup>st</sup> Respondent Company from the Registrar of Companies and to his utter dismay found out that he nowhere figured as the Chairman of the 1<sup>st</sup> Respondent Company and among the directors. The Petitioner came to know that he was deceived. The promise that the Petitioner was made the Chairman and a director of the 1<sup>st</sup> Respondent Company and payments during the brief period following the signing of the agreement dated 25.06.2007 were only a diversionary tactic adopted by the respondents to make the

Petitioner believe that the Agreement was honoured. The Petitioner, having been betrayed, found out that he was just a shareholder of the Company with 6000 shares to his credit. The Petitioner is further aggrieved by the callous attitude of the 1<sup>st</sup> Respondent Company in not paying him the remuneration, interest on his investment at 8% as agreed to by the then Managing Director vide the Memorandum of Understanding cited above. Further the respondents 2 and 3 have continuously ignored to make the payment to the Petitioner.

11. According to the petitioner, he as a shareholder of the Company holding 25% of the paid up capital of the Company is very much aggrieved and oppressed by the unfair and harsh treatment meted out to him by the 1<sup>st</sup> Respondent Company and its Directors, namely the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents respectively. The Petitioner has not been given any statement with regard to the functioning of the first Respondent Company and also not been informed about the meetings. The petitioner is a 25% shareholder of the first Respondent Company and because he had contributed to the construction of the factory premises of the 1<sup>st</sup> Respondent Company and was promised to be made

Chairman and a Director of the Company and thus he is entitled to notice of all the Board meetings of the 1<sup>st</sup> Respondent Company.


12. The Petitioner has further stated that the Respondents had never taken any steps to inform him of the Meetings conducted by the 1<sup>st</sup> Respondent Company and also failed to furnish the annual audited accounts of the Company which the petitioner is statutorily entitled to receive. Further, the petitioner was not informed of the functioning of the Company ever since he became the shareholder of the Respondent Company.

13. According to the petitioner the respondents lacks probity, is unfair and causes prejudice to the Petitioner in the exercise of his legal and proprietary rights as a shareholder. This harsh and unfair treatment has been a continuous act of oppression ever since the Petitioner subscribed to the shares of the Company.


14. The Petitioner submits that the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents had through their mismanagement had failed to realize the objects of the Company as enshrined in the Memorandum of Association of the 1<sup>st</sup> Respondent Company. The




respondents without any authority and without any board resolution had let out the factory of the Company situated on Plot Nos.4 & 5 in Survey Nos.154 & 155 in the Electronic Industrial Estate at Kakkalur to another company viz., Nisho Control Systems under a Registered Lease Deed executed on 18/10/2011 in document No. 12709 of 2011 registered in the books of the Sub-Registrar's Office, Tiruvallur for a monthly Rent of Rs.60,000/- (Rs. Sixty Thousand only). The respondents 2 and 3 have also received a sum of Rs. 7 lakhs as initial advance and another sum of Rs.7 lakhs as additional advance and further a sum of Rs.35.60 lakhs over a period of three years and appropriated all the amounts for their own benefit.

15. According to the petitioner, the above said encumbrance was never informed to the petitioner and the respondents have themselves dealt with the company's property without necessary board resolution. Further, the amount received as income was not accounted by them. Subsequently, upon the expiry of the said lease the respondents 2 and 3 let-out the factory premises to M/s.SP Engineers Auto Tech India Pvt. Ltd., the 4<sup>th</sup> respondent herein under a Registered Lease, 


deed executed on 03/03/2016 in document No.2256 of 2006 registered in the books of Sub-Registrar's Officer, Tiruvallur, for a monthly rent of Rs.45,000/- (Rs. Forty Five Thousand only) which is an act prejudicial to the interests of the shareholders and consequently to the interest of the 1<sup>st</sup> Respondent Company. The respondents 2 and 3 are enjoying the advance amounts collected from the lessees and rental income thereof and the respondents have not even disclosed the fact to the Petitioner. The petitioner has stated that he reliably understands that the amount mentioned in the lease deed is far below the actual amount received by the respondents. He has pointed out that factory was leased out for a sum of Rs. 60,000/- per month in the year 2011 itself and also the lease amounts were received by the respondents over these years. However it is shown as if the property was let out for a sum of Rs.45,000/- per month in 2016 which is not the true amount.

16. Further the respondents have not kept the Petitioner informed of the affairs of the Company and further refused to provide the audited Balance Sheet and Annual returns of the Company in spite of notices sent to the respondents from time to time even though the Petitioner is entitled to all these things. 

17. As stated above, the Respondents 2 and 3 have not filed any audited balance sheets and annual returns of the 1<sup>st</sup> Respondent Company before the Registrar of Companies and not even informed the encumbrance created over the property of the 1<sup>st</sup> Respondent Company. No annual general body meeting of the Company was called for and no meeting has been minuted since 2007. The Petitioner has stated that he was kept in dark about the affairs of the Company and the respondents 2 and 3 are appropriating the income of the 1<sup>st</sup> Respondent Company by way of lease amount. According to the petitioner, the property of the 1<sup>st</sup> Respondent Company was dealt with by the respondents 2 and 3 without there being any resolution of the Company and hence the same has to be set aside.

18. The petitioner has stated that he had sent a notice to the Respondents 1 to 3 on 09.08.2016 calling upon them to provide the petitioner audited balance sheets and the annual returns of the Company for the periods commencing from 01.04.2010 to 31.03.2011 onwards till date and also requested them to convene an Extraordinary General Body Meeting of shareholders to discuss the affairs of the Company. However, knowing the contents of the notice, the respondents evaded to receive the same and managed 

to return the notice as "left". Again the Petitioner sent the same notice through speed post on 26.08.2016 which also met the same fate and but the notice sent by courier-service was delivered to the respondents. The respondents evaded the notice from the shareholder twice and the Petitioner had to send the notice a third time for service on them. Even after the receipt of the notice, the respondents 2 and 3 have not taken any steps to provide the copies of audited balance sheets nor disclose the affairs of the Company to the Petitioner. No meeting was also called for by them.

19. The Petitioner states that the foregoing conduct of the respondents lacks probity, is unfair and harsh and causes prejudice to the Petitioner in the exercise of his legal and proprietary rights as a shareholder and is a continuous act which is oppressive. Under these circumstances the present petition is filed before this Hon'ble Tribunal. The petitioner has stated that the second respondent has to be removed from the directorship and the Petitioner be appointed the Director, who would be reporting to this Hon'ble Tribunal about the affairs of the 1<sup>st</sup> Respondent Company. He has submitted that the Tribunal may exercise its powers under Section 241 of the Companies Act 2013, else the petitioner and the creditors of the 



first Respondent Company would be greatly prejudiced and put to heavy and irreparable loss.


**RELIEF SOUGHT by the petitioners:**

- a) Pass an order regulating the conduct of the affairs of the 1<sup>st</sup> Respondent Company.
- b) Remove the respondents 2 and 3 from the directorship of the 1<sup>st</sup> Respondent Company and appoint the petitioner as the Director of the 1<sup>st</sup> Respondent Company for reporting to this Hon'ble Tribunal on the affairs of the first respondent Company.
- c) Direct the 4<sup>th</sup> respondent to deposit the monthly rents to the credit of the CP pending disposal.
- d) Direct the respondents 2 and 3 to provide the Petitioner audited balance sheets and the annual returns of the Company for the periods commencing from 01.04.2010 to 31.03.2011 onwards till date.

In **counter** the respondents 1 to 3 have stated that the petition was filed by the petitioner with a view to harass the Respondents and to prevent them from conducting the business peacefully.

The Respondents contention in brief is that 

“The petitioner has already filed petitions in various courts regarding this matter and hence this case is not maintainable. The allegation that the petitioner entered into a Memorandum of Undertaking on 25.06.2007 was also not admitted. The allegation contained in para 7 of the Petition that the petitioner invested Rs.13 lakhs in the Respondent Company in addition to the loan advanced during the year 2003 is not correct. The present Directors were not aware of the alleged letter dated 27.03.2010 alleged to have been written by Late P.Gopalan. These Respondents have stated that the petitioner had been allotted 6000 shares at a value of Rs.100/- per share and a sum of Rs.63,000/- was paid as allotment money as shown in the balance sheet of the Company for the year 2008-09. It was also found that a sum of Rs.6,37,000/- was paid to the petitioner on 07.09.2007 by depositing the said cheque to the account of the petitioner with the State Bank of India, Mylapore Branch.

Immediately after the death of Mr.Gopalan, the petitioner tried to assume charge over the affairs of the 1<sup>st</sup> Respondent Company as though he was the Chairman and Director of the Company, taking advantage of the fact that the 2<sup>nd</sup> 

Respondent is a lady. When his attempt to take charge of the Company was foiled, the petitioner sought return of his money paid as an alleged loan. The petitioner had issued legal notice on 28.02.2011 claiming to be the Director of the Company and demanded payment of Rs.20,000/- as his remuneration. He was neither appointed as a Director nor was he paid any amount as remuneration. Now realizing that his claims of being director and payment of remuneration have been found to be false, the petitioner has now come forward with the allegation that the Late.P.Gopalan has agreed to buy the shares of the petitioner at the price purchased by him and had also offered to pay 8% simple interest on the amount invested by him. This was when the petitioner was fully aware of the fact that he was never inducted as a Director at any point of time and he never participated in the affairs of the Company. The allegation that he was paid remuneration at the rate of Rs.20,000/- per month is also baseless, false and unsustainable. From the pleadings of the petitioner, it is evident that admittedly, the alleged Memorandum of Understanding dated 25.06.2007 was never acted upon but the Petitioner had issued legal notice on 28.02.2011 with false and fabricated allegations that he was a

Director and that he had to be paid remuneration, only to intimidate the 2<sup>nd</sup> Respondent and her children and to usurp the Respondent's Company and its properties.

The petitioner having failed in his attempts to usurp the 1<sup>st</sup> Respondent Company and enrich himself, has been issuing notices and filing Civil and Criminal Proceedings against the Respondents only with a view to harass them and subject them to his illegal demand. The petitioner has filed a Criminal Complaints E.O.C.C. No.143 of 2013 before the Additional Chief Metropolitan Magistrate Court at Egmore and C.C.No.5351 of 2014 before the XVIII Metropolitan Magistrate, Saidapet, threatening the Respondents to pay him his alleged share of the Respondent's Company. Since the Respondents did not accept his demands, with ulterior motives, the petitioner, has filed both criminal complaint against the Respondents with a view to extract money illegally. The petitioner has also filed Company Petition No.139/2012 before the Hon'ble High Court, Madras, to wind up the 1<sup>st</sup> Respondent's Company, which is pending. Now unsuccessful in his earlier complaints, the petitioner has filed the above Petition before this Hon'ble Tribunal with false and frivolous allegations against these




Respondents.

The Respondents have denied the allegations contained in para V(8) of the Petition that the 2<sup>nd</sup> Respondent and her son Sarath Gopalan, promised to look into the request of the petitioner to return the money invested by him as false and unsustainable.

The Respondents have denied the allegations contained in para 9 and 10 of the Petition as false and unsustainable. The petitioner had issued notice dated 28.02.2011 to the 2<sup>nd</sup> Respondent and her son in the capacity of Chairman of the 1<sup>st</sup> Respondent Company, which was refuted by the Respondents by their reply dated 23.03.2011. The said Reply Notice dated 23.03.2011 may be read as part and parcel of this Counter Statement.

The Respondents have denied the allegations contained in Para 10 of the Petition as totally incorrect. The 1<sup>st</sup> Respondent Company was managed by late Mr.Gopalan, husband of the 2<sup>nd</sup> Respondent and father of the 3<sup>rd</sup> Respondent. The 3<sup>rd</sup> Respondent was not even a director and 2<sup>nd</sup> Respondent did not participate in the activities of the Company nor were they aware of

the alleged transaction between the petitioner and late Mr.Gopalan. It is pertinent to note that even in 2010 during the life time of late Mr.Gopalan, he was well aware of the alleged Memorandum of Understanding dated 25.06.2007 was never acted upon and therefore he never became the Director of the Company nor participated in any activities of the 1<sup>st</sup> Respondent Company. Therefore, the petitioner cannot now seek to enforce the said MoU dated 25.06.2007 before this Hon'ble Tribunal. Right from the death of Mr.Gopalan, the petitioner's has conducted himself with the ulterior motive to take over the 1<sup>st</sup> Respondent Company, which has been resisted and scuttled by the Respondents.


The Respondents have denied the allegations contained in para No.11 as absolutely false and incorrect. The allegation that the Petitioner is very much aggrieved and oppressed by the unfair and harsh treatment meted out to him by Respondents 2 & 3 are all incorrect and made with ulterior motives to sustain this Petition. The allegation that the petitioner has not been given any statement with regard to the functioning of the 1<sup>st</sup> Respondent Company and also not been informed about the meetings are also false and unsustainable. The Respondents have stated that the 

petitioner has been harassing the Respondents by filing false and frivolous cases, both civil and criminal, against these Respondents only with a view to extract money illegally to enrich himself. The Respondents have denied that the petitioner was not informed about the meetings.

The Respondents have stated that admittedly on 06.08.2016 the petitioner has sent one notice that too, to the erstwhile registered office of the 1<sup>st</sup> Respondent Company knowing full well that the Company has changed its registered office. All the material particulars and documents of the 1<sup>st</sup> Respondent Company sought for by the petitioner are available in the MCA website.

The respondents have stated that the allegations that there has been harsh and unfair treatment and continuous acts of oppression ever since the petitioner subscribed to the shares of the Company are all absolutely incorrect.

The Respondents have denied the allegations contained in para 14 of the Petition as absolutely false and unsustainable. The allegation that the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents had through their mismanagement, failed to realize the objects of the

Company as totally incorrect and unsustainable. The allegation that the Respondents have without authority and without any board resolution had let out the factory of the Company is also absolutely incorrect and baseless. The Directors of the 1<sup>st</sup> Respondent Company have passed appropriate Resolutions to lease out the property and both the Directors have signed and registered the Lease Deeds. The allegation that the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents have received a sum of Rs.7 lakhs as initial advance and an additional advance of Rs.7 lakhs and further a sum of Rs.35.60 lakhs over a period of three years and appropriated all the amounts for their own benefit are all false, unsustainable and baseless made with an ulterior motive. It is correct that the factory premises of the Company was leased out to Nisho Control Systems under a Registered Deed executed on 18.10.2011 in Document No.12709 of 2011 since the premises were lying unused. All the amounts received under the said Lease have also been accounted for in the Books of Accounts of the 1<sup>st</sup> Respondent Company. These Respondents have not misappropriated any amount for their own benefit as alleged. These Respondents have put the assets of the 1<sup>st</sup> Respondent Company to proper use to earn more income and to 



settle the liabilities of the Company.

Now the 3<sup>rd</sup> Respondent has picked up the business of the Company and made profits for the first time since 2010.

The Respondents have denied the allegations contained in para 15 of the Petition as absolutely false and unsustainable. The allegation that the amount mentioned in the lease deed is far below the actual amount received by the Respondents is absolutely false and figment of imagination of the petitioner.

The Respondents have denied the allegations contained in Para 16 of the Petition. All the accounts of the 1<sup>st</sup> Respondent Company have been audited and filed and are very much available with the Registrar of Companies.


The Respondents have denied the allegations contained in para 17 of the Petition as false and unsustainable. The Balance Sheet of the 1<sup>st</sup> Respondent Company are prepared audited and are filed before the Registrar of Companies. The 1<sup>st</sup> Respondent Company's affairs have been conducted in accordance with the various provisions of the Companies Act and in due compliance of its procedures.

The Respondent have denied the allegations contained in para 18 of the Petition. They have stated that the petitioner had sent the notice to the old address with an oblique motive. Therefore, the allegations that the Respondents 2 and 3 have not convened an Extraordinary General Body Meeting of the Share Holders is absolutely false and unsustainable.

The Respondents have denied the allegations contained in para 19 of the Petition and stated that the petitioner has been filing petitions against the Respondents at all judicial forums only to harass the Respondents on one pretext or other and has therefore filed the present Petition suppressing the material facts on unsubstantiated allegations.

According to the Respondents the only intention of the petitioner is **to close down the 1<sup>st</sup> Respondent Company and liquidate its assets.**

In the **rejoinder** filed by the petitioner a prayer is made for an order regulating the affairs of the first respondent Company and other incidental reliefs.

The petitioner has stated in the rejoinder that the CP No.139 of 2012 before the Hon'ble High Court, Madras under 

Sec.433 of the Companies Act, 1956 has already been withdrawn. In any event, the Petition for winding up and Petition under Section 241 of the Act are operating under different context. Further a criminal complaint referred by the Respondents is not a bar for filing the present Petition.

The petitioner has stated that the Respondents 1 to 3 have blatantly denied the facts stated by the petitioner without verifying the fact that the Memorandum of Understanding dated 25.06.2007 was admitted by them in the reply notice sent by them on 21.03.2011, which is extracted as follows.

“My client states that Aidees Electronics Private Ltd., hereinafter referred to as the “Company” was promoted by Mr.P.Gopalan. In the year 2007, when Mr.P.Gopalan wanted to expand the business of the Company, your client came forward to contribute towards the capital of the Company and entered into an Agreement dated 25.06.2007”. On this ground alone the counter statement filed by Respondents is liable to be rejected.

The petitioner has stated that he has been making repeated demands and protests against the Respondents from the year 2010 and nowhere the Respondents in the earlier proceedings

or exchange of communications have stated that notices were also sent to the petitioner.

The petitioner has further stated that the Respondents have produced two resolutions dated 01.09.2011 and 01.09.2015. Further alleged resolution dt.01.09.2015 contains interlineations and overwriting, making it obvious that it is fabricated now. Further none of lease deeds contain reference of the Board Resolutions.

The petitioner has further stated that no rental income is shown in the Statement of accounts and a sum of Rs.70,000/- was shown as rent paid by the Company. Thus the above statement would disprove the facts of the case of the Respondents and hence remedial measures under Section 241 of the Companies Act are prayed in the application.

Based on the rejoinder the respondents 1 to 3 have stated that the petitioner has suppressed material facts with regard to the Criminal case pending before the Magistrate Court, Egmore against the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents to suit his convenience and that the petitioner has filed the present application before this Hon'ble Tribunal based on false allegations and that the intention of the




petitioner was only to harass the Respondents by filing false cases in various judicial forums.

Respondents 1 to 3 have also stated that they were not aware of the genuinity of the Memorandum of Understanding, since it was Mr.Gopalan who was handling the affairs of the Company and the petitioner was making false claims with regard to the alleged Memorandum of Understanding dated 25.06.2007 with an intention to take over the factory of the 1<sup>st</sup> Respondent Company.


Respondents 1 to 3 have stated that the allegations in paragraph 4, 5 & 6 are absolutely false, baseless and misleading.

The Respondents have further stated that they have filed the account statement for the assessment years from 2011-12 to 2015-16 which have been duly audited and filed before the Income Tax Department, complying with the norms enumerated by law and **have sought to dismiss the above Company Petition.**

### **ORDER**

The MOU dated 25.06.2007 was not entered into by the R1 Company with the petitioner. It was made by Late Shri P.Gopalan and it was not followed by a binding agreement between the R1 Company and the petitioner. Hence, the terms 

of the MOU between the Petition and Late Shri P.Gopalan are not enforceable against the R1 Company. The amount of Rs.13,00,000/- paid by the petitioner (vide SBI Cheque No.112673 dt.14.05.2007 for Rs.5,00,000/- and SBI Cheque No.243492 dt.01.07.2007 for Rs.8,00,000/-) is for the share value including the premium on shares and hence it is not a debt due to be returned to the petitioner. However the amount in share allotment account is to be credited to the share capital account and additional shares to this extent are to be allotted to the petitioner within three weeks after receiving the copy of this order. As the R1 Company had kept the amount for long, it cannot refuse to allot shares to the petitioner at this juncture. Accordingly, after making the allotment, the register of member shall stand rectified by the 1<sup>st</sup> respondent company.

The petitioner has extended a loan of Rs.6,50,000/- in the year 2003 at the instance of Late Shri P.Gopalan as per the details furnished in the Petition. Out of this as per the reply filed by the Respondent an amount of Rs.6,37,000/- has been deposited in the petitioner account on 07.09.2007, 

Hence, **an amount of Rs.13,000/-** alongwith interest (at the rate of 8% as has been mentioned in para 7 of the petition) **shall be returned to the Petitioner by the R1 Company,** within three weeks, after receiving the copy of this order.

The **1<sup>st</sup> respondent company for every EOGMs/AGMs** shall issue due notice to the petitioner through Registered Post/mail address, if any, furnished, and Board of Director shall provide information about every decision of the Board to the petitioner. Accordingly, **the petition stands disposed of.**

There will be no order as to costs.

*S - Vijayaraghavan*  
**(S.VIJAYARAGHAVAN)**  
MEMBER (TECHNICAL)

*CH. MOHD. SHARIEF TARIQ*  
**(CH.MOHD.SHARIEF TARIQ)**  
MEMBER (JUDICIAL)

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