

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI**

**Company Appeal (AT) No.74 of 2017**

**IN THE MATTER OF:**

**Devraj Vasant Immanual & Ors**

**...Appellants**

**Vs**

**YSP Balraj & Ors.**

**...Respondents**

**Present: Mr. Subramonium Prasad, Sr. Advocate with Mr. M. Anbalagan and Ms Ila Halbia, Advocates for the Appellants. Sh S. Sethu Mahendran, Advocate for Respondent No.2, 3 and 4.**

**ORDER**

11.04.2017- This appeal has been preferred by the appellants against order dated 01.02.2017 passed by National Company Law Tribunal, Chennai (hereinafter referred to as the 'Tribunal' for short) in CP No.4/2016.

From the record we find that the Company Petition was filed in August, 2016, and under Section 422 of the Companies Act, 2013, the Petition was required to be disposed off preferably within three months. Now about 9 months have been passed but the company petition has not been disposed of and pending. There is nothing on record to suggest that the Hon'ble Member of the Tribunal have obtained the permission from the President, National Company Law Tribunal, New Delhi for further time.

In the impugned order the Tribunal while discussing relevant facts was of the view that it will be justified, if a probe be ordered to ascertain the credibility of the allegations which have been levelled by the petitioners against 2<sup>nd</sup> and 3<sup>rd</sup> respondents for diverting the business of 1<sup>st</sup> respondent company. For the said reason a Chartered Accountant has been ordered to be appointed to investigate and audit the 1<sup>st</sup> respondent company and 6<sup>th</sup> respondent company to ascertain as

to whether 1<sup>st</sup> respondent company suffered losses due to siphoning off the valuables, finances, assets etc. This order was passed on 01.02.2017 and now more than two months have passed no progress has been made. Learned Counsel for the parties submits that the investigation has not yet commenced.

In the circumstances, without interfering in the impugned order, we direct the Tribunal to hear the parties on merit and dispose of the company petition without awaiting for investigation report, preferably by 15<sup>th</sup> May, 2017.

In the meantime, if any investigation report is submitted both the parties should be given hearing on the question as to whether report is to be accepted or not. If no report is submitted within ten days, the Tribunal will proceed in the matter on the basis of the record.

The appeal stand disposed off with the aforesaid observations and directions.

(Justice S.J. Mukhopadhaya)  
Chairperson

(Mr. Balvinder Singh)  
Member (Technical)

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