

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) No. 193 of 2017

IN THE MATTER OF:

Anand Kumar & Ors.

...Appellants

Vs.

Usha Kumar & Ors.

... Respondents

**Present: For Appellants: - Mr. Varun Singh and Gaurav Nain,
Advocate.**

For Respondents:-

ORDER

18.07.2017 In a petition filed under section 420 read with Section 10F (m) and 10F (n) of the Companies Act, 1956 an Interlocutory Application No. 72 of 2015 was preferred by Respondents wherein an interim order was passed on 6th March, 2017. After more than three months, the appellants filed another Interlocutory Application No.236 of 2017 to amend the interim order on the ground of error occurred in the order.

2. Ld. National Company Law Tribunal, (hereinafter referred to as 'Tribunal') Kolkata Bench, Kolkata, having found no error in the order dated 6th March, 2017 and taking into consideration the admitted position that the company is not functioning well, dismissed the Interlocutory Application No.236 of 2017.

Contd/-.....

3. We have heard Ld. Counsel for the Appellant and perused the order. In absence of any illegality or perversity in the order, we also find no ground to interfere with the impugned order. At this stage, we may point out that Tribunal has no power to review or recall its order, except by exercising inherent power either under Rule 11 or Rule 155 of the NCLT Rules, 2016. As per Rule 155, where error, if any, is noticed the Tribunal may correct it within 30 days from the date of original order to do substantial justice to the parties. First of all, there is no error in the interim order passed on 6th March, 2017 and this apart, we find that the application was filed after 90 days which is beyond 30 days. As the main company petition is pending consideration, no interference is called for.

4. For the reasons aforesaid, we dismiss the appeal and direct the parties to co-operate with the Tribunal for expeditious disposal of the Company Petition, as in terms of Section 422, the Tribunal is required to dispose of the matter preferably within three months.

However, in the facts and circumstances of the case there shall be no order as to cost.

(Justice S.J. Mukhopadhaya)
Chairperson

(Balvinder Singh)
Member(Technical)

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