

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeals (AT) No. 73 of 2017

IN THE MATTER OF:

Pallavi Gems Pvt Ltd & anr

...Appellants

Vs

M/s Haresh N Mataliya & Ors

...Respondents

Present: Shri Prathamesh Kamat with Mr. Gaurav Nair Advocates for the appellants.

ORDER

22.03.2017- This appeal has been preferred by the appellants/respondents against the order dated 17th February, 2017 passed by the National Company Law Tribunal, Mumbai Bench in C.A. No.11/2016 in TCP No.18/59/NCLT/MB/MAH/2016 whereby and whereunder the Tribunal rejected the C.A. No.11/2016. In the said application the maintainability of the Company Petition was challenged by appellant on the ground of limitation and that the reliefs sought by Respondents under Section 59 of the Companies Act, 2013 are not as per law.

2. Having heard the Learned Counsel for the appellants and on perusal of records, however, we are not inclined to interfere with the impugned order 17th February, 2017 for the following reasons.

3. The company petition was filed by the Respondents/Petitioners under Sections 58, 59 and 62 of the Companies Act, 2013 before the erstwhile Company Law Board, Mumbai Bench, Mumbai. When the said petition was filed, period of 'Limitation' as prescribed under Section 433 of the Companies Act 2013 was not applicable; Section 433 came into force from 1.6.2016. Therefore, the Company Petition filed by the Respondents before the Company Law Board was maintainable and cannot be dismissed on the ground of Limitation.

4. In so far relief under Section 59 is concerned, the appellants may raise such question at the time of hearing of the case. In such case the Respondents may support their prayer as per Law.

5. The appeal is dismissed with aforesaid observation, but in the facts and circumstances there shall be no order as to cost.

(Justice S.J. Mukhopadhaya)
Chairperson

(Mr. Balvinder Singh)
Member (Technical)