

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) No.98 of 2017

IN THE MATTER OF:

Promas Engineers Pvt Ltd & Ors

...Appellants

Vs

James Martin Pereira & Ors

...Respondents

Present: Mr. Arun Katpalia, Sr. Advocate with Mr Bijal Rathod, Mr. Lakshay Sawhney, Ms Vaishali M, Advocate for the appellant. Mr Sumit Goel, Advocate from Parekh & Co for the Respondents.

ORDER

11.04.2017 - Issue Notice. Mr. Sumit Goel, Advocate accepts notice on behalf of the respondents. No further notice be issued to them.

This appeal has been preferred by the appellant against the order dated 3rd March, 2017 passed by National Company Law Tribunal, Mumbai Bench in CP No.08/241, 242/NCLT/MB/MAH/2017. By the impugned order the Tribunal restrained the appellant company/respondent from implementing the Resolution passed by the Board pertaining to the allocation of Right Offer.

Learned Counsel appearing on behalf of the appellants submits that the company is in need of funds and for raising of funds the impugned order is allowed to be vacated in the interest of the company. It is further submitted that the rights offer is open to all including the respondents.

Learned Counsel appearing on behalf of the Respondents submits that on 29th March, 2017 the matter was taken up when the Tribunal passed the following order:

"2.As far as Speaking to the Minutes is concerned, in the Order dated 03.03.2017 in CP No.08/2017 on Page 4 para 1, 4th line the word "Petitioner" is wrongly typed instead of the word "Respondents". Therefore, it is corrected. Henceforth, the word "Respondents" shall be read instead of "Petitioner"

3. It is informed that an Addl. Affidavit has been filed from the side of the Respondents. The Petitioner is seeking time to file the Counter-affidavit.

Granted.

4.The Petitioner is also asking inspection of certain documents from the Respondents, therefore, it is hereby directed that the Petitioner shall give list of the documents to the Respondents to be inspected on or before 31.3.2017 and thereafter both the Learned Representatives shall fix the date for inspection of only those documents. On the date fixed the Respondents shall give inspection and photocopy of those documents to the Petitioner's Representative. Thereafter the Petitioner shall file Counter Affidavit, if deemed fit, on or before 17.04.2017 with a copy to be served in advance to the other side.

5. On completion of this part of the pleadings, since rest of the pleadings are already completed, therefore, matter is listed for final hearing on 25.04.2017 as consented by both the parties.”

Having heard the Learned Counsel for the parties, while we do not express any opinion about the impugned order, in the interest of justice, and in view of Section 422 of the Companies Act, 2013, we pass the following order:-

The parties are directed to cooperate with the Tribunal during final hearing fixed on 25th April, 2017. The Tribunal will ensure disposal of the company petition on an early date, preferably by 15th May, 2017. If the company petition is not disposed of by 15th May, 2017, the interim order passed on 3rd March, 2017 shall stand vacated. However, for no fault of the parties, if the matter is not disposed of within the time prescribed above, the parties may approach this Appellate Tribunal for interim relief.

The appeal is disposed of with the abovesaid observations and directions.

No cost.

(Justice S.J. Mukhopadhaya)
Chairperson

(Mr. Balvinder Singh)
Member (Technical)