

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) No. 161 of 2017

IN THE MATTER OF:

Jugnar Processors Pvt Ltd & Anr. Appellant

v.

Shri Rohtas Jugalkishore Gupta Respondent

Present:

For Appellant: - Sumesh Dhawan, Ms Vatsala Kak and Ms Tannya Baranwal

For Respondent: - Mr M.S Bhardwaj, Advocate

ORDER

1.8.2017 – The Appellant has challenged the order dated 2nd March 2017 passed by National Company Law Tribunal (hereinafter referred to as Tribunal) Mumbai Bench in T.C.P. No. 32/397, 398/NCLT/MB/2014. By the impugned order the Tribunal rejected the preliminary objection raised by the Appellant about the maintainability of the petition under Section 397 and 398 of the Companies Act, 1956 and held that the petition is required to be admitted for adjudication on merit.

2. It is not in dispute that the Respondent earlier filed Company Petition No. 43 of 2014 under Section 397 and 398 of the Companies Act, 1956. The matter was taken up, the Appellant and Respondent agreed to settle the dispute and the erstwhile Company Law Board, Mumbai Bench by order dated 19th December 2014 passed the following order: -

“ C.P. No. 43 of 2014

1. Case taken up today in presence of the Petitioner-in-person.
2. The Petitioner seeks permission to withdraw the Company Petition. Prayer considered. Allowed.
3. The Petitioner is permitted to withdraw the Company Petition. C.P. stands disposed off as withdrawn.
4. In view of the withdrawal of the Company Petition, pending C.A, if any, also stands disposed off accordingly. Interim order, if any, stands vacated.
5. No order as to costs.
6. Let copy of order be issued to all concerned.”

3. The matter was taken up by a letter dated 20th November 2014 which was written by one Mr Rohtas Gupta to the Bench Officer, Company Law Board, Mumbai wherein it was stated as under:

“Honourable Bench.

I have agreed and decided to withdraw the above said case based on our family understanding without any pressure on me. Therefore, in view of the aforesaid, I have resultantly decided and agreed to withdraw the respected prayers and relief as sought by me till date in the present case.

The next hearing of the case before the Honourable Bench is on 19th December 2014.

You are requested to take this letter on record and pass necessary order for closing the case.”

4. A Settlement Deed was executed on 10th November 2014 whereby it was mutually decided and an assurance was given by Mr. Devendra Gupta to make full and final payment of Rs. 75 lacs to the Respondent within the stipulated time subject to fulfilment of certain conditions. However, in view of such mutual agreement between the parties the Respondent agreed to withdraw the petition preferred before the Company Law Board. Ld. Counsel appearing on behalf of the Appellant submits that it was only an oral submission and settlement letter was not signed. Clear terms and conditions are yet to be decided. However, it is in dispute because of certain conditions of settlement and the Respondent withdrawing the Company Petition. In this background if the Tribunal being satisfied and in the absence of any prohibition to file

any application to the same cause of action in the absence of any decision, no interference is called for.

5. There being no merit the appeal is dismissed. There is no ground for the Tribunal to admit the case if any subsequent cause of action has taken place.

(Justice S.J. Mukhopadhaya)
Chairperson

(Mr. Balvinder Singh)
Member (Technical)

rc.