

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

**COMPANY APPEAL (AT) NO.22 OF 2018**

**IN THE MATTER OF:**

**Ratan Kumar Shaw** .. **Appellant**  
**Vs**  
**Vishal Gases Pvt. Ltd. & Ors.** .. **Respondents**

**Present:**

**For Appellant:- Mr. Subhasish Bhowmick and Mr. G. Goyal, Advocates**

**O R D E R**

**19.01.2018** - Learned Counsel for the Appellant submits that the Appellant had submitted objections to the Valuer's Report but the NCLT did not consider. The learned Counsel is pointing out order dated 11<sup>th</sup> September, 2015 passed by the Company Law Board, Kolkata Bench in C.P. No. 27(Kol)/2009 whereby the Respondents were permitted three weeks' time to comment on the Valuation Report. He submits that 50-50% ratio was required to be kept at the time of valuation.

We have considered the appeal. Impugned order reads as under:

*"Ld. Counsel for the petitioners and the respondents are present.*

*It appears that by an order dated 02/09/2011 and 16/10/2012 the then Company Law Board has passed the following orders:*

*"02/09/2011- At the request of the parties in this case, this Bench, in the light of the respective affidavits filed by P-1 & R-2, hereby appoints Shri Sarbajit Datta, Chartered Engineer & Valuer of 5, Kiran Shankar Roy Road, 2<sup>nd</sup> floor, Room No. 6 Kalkata 7000001, as Valuer to prepare*

*the valuation report over the assets and properties of the respondent company, without taking in consideration the alienations said to have been held after filing of the main petition, so that the assets and properties of the company to be divided on 50:50 basis between P-1 & R-2 by taking note of all liabilities of the company. The remuneration of the valuer and other incidental expenses, if any, as may be charged by the Valuer are to be borne and met by P-1 & R-2 equally. The valuer shall submit his report (in duplicate) on or before 11-11-2011.”*

*“16/10/2012 – Ld. Counsel for sides are present. Both of them agreed to the valuation as contained in the report submitted by the valuer. The valuer is not present today. Since the parties are ready to go ahead with the valuation report and at their request the matter is posted on 14.12.2012 at 2:30 P.M.”*

*On perusal of the above orders and in view of the settlement between the parties recorded by orders dated 02/09/2011 and 16/10/2012 there is no question of reopening the issue and this Court has no jurisdiction to review the orders passed on 02/09/2011 and 16/10/2012, which are still in force since the same has been accepted by both the parties.*

*However, valuer is directed to proceed further for compliance of the order dated 02/09/2011.*

*List 22/02/2018 for further order.*

*Urgent certified copy of the order be issued, if applied for, upon compliance of all requisite formalities.”*

After going through the order it is apparent that NCLT has considered the matter. In the name of considering objections, NCLT did not want to re-open issues. No fault can be found with this reasoning. Valuer has been asked to proceed further.

It would not be appropriate to interfere with the impugned order. There is no substance in the appeal. Appeal is dismissed.

(Justice A.I.S. Cheema)  
Member(Judicial)

[Justice Bansi Lal Bhat]  
Member (Judicial)

*Akc/Nn*