

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) No. 284 of 2019

IN THE MATTER OF:

Surinder Kumar Batra & Anr.

...Appellants

Versus

Daffodills India Pvt. Ltd. & Ors.

...Respondents

Present:

**For Appellant: Mr. Neeraj Kumar Jain, Sr. Advocate with Mr. Amiket Jain,
Advocate.**

ORDER

22.10.2019 The appellants/petitioners preferred application under Sections 241 and 242 of the Companies Act, 2013 alleging acts of oppression and mismanagement on the part of the respondents. The Adjudicating Authority (National Company Law Tribunal, New Delhi Bench, by impugned order dated 7th August, 2019 rejected the application being devoid of merit and made following observations: -

Having signed the cheques and mandating the transfer was an act done by the petitioners. The allegations of siphoning are therefore unfounded. The photo copies of the cheques in respect of the "Siphoned amounts" have been annexed by the respondent to the reply. These cheques correspond to the entries in the Bank Statements of the respondent company. The cheques were signed by petitioner no. 2 himself. The signatures are not denied. Under such circumstances the

allegation of siphoning off of the funds falls flat on its face. No case of oppression or mismanagement can be made out. The petitioner's defence that it is a case of pre signed cheques being misused by respondent no. 2 has no legs to stand upon. The fact that the respondent no. 2 has chosen to use the money in priority to regularisation of a bank liability, is a business decision which cannot be questioned by this Bench. There are allegation of misappropriation of funds made by the Respondent No. 2 against the petitioners which however, is not a subject matter of adjudication before this Bench.

Learned counsel for the Appellants submits that money was siphoned and transferred to himself by 2nd Respondent surreptitiously using blank cheques signed by 2nd Appellant. Further, the money transferred to 2nd Respondent was not used for the benefit of the 1st Respondent, but rather for personal gain of 2nd Respondent.

However, we are not inclined to accept such submissions. Admittedly, the appellants/petitioners had issued a pre-signed cheque in favour of 2nd Respondent and handed over to the 2nd Respondent. Having done so now it cannot be alleged in absence of any record that Respondent no. 2 misappropriated the cheque.

In fact, the appellants/petitioners should not have issued blank pre-sign

cheque which is against the provisions and which is not permissible by 'Negotiable Instruments Act'. He has committed violation of the Act.

In view of the aforesaid facts, we are not granting any relief. The appeal is accordingly dismissed. No costs.

[Justice S.J. Mukhopadhaya]
Chairperson

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

[Kanthi Narahari]
Member (Technical)

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