

NATIONAL COMPANY LAW APPELLATE TRIBUNAL

NEW DELHI

Review Application No.21 of 2019

in

Company Appeal (AT) No.239 of 2018

IN THE MATTER OF:

National Textile Corporation
Core-4, NTC Premises,
Scope Complex-7,
Lodhi Road,
New Delhi-110003

...Applicant

Versus

1. Lakshmirattan Cotton Mills Company Limited
Through its Director,
Sashank Gupta,
MI-307, Barra 2,
Kanpur 208027 UP India

Respondent No.1
(Original Appellant/Petitioner)

2. Union of India,
Through Secretary,
Ministry of Corporate Affairs,
Garage No.14, A Wing,
Shastri Bhawan,
Rajendra Plasad Road,
New Delhi-110001

Respondent No.2
(Original Respondent No.1)

3. Registrar of Companies,
Uttar Pradesh & Uttarakhand,
37/17, Westcott Building,
The Mall,
Kanpur 208001, UP India

Respondent No.3
(Original Respondent No.2)

For Applicant: **Ms. Madhavi Divan, Sr. Advocate with Ms. Mayuri Raghuvanshi, Ms. Vyom Raghuvanshi and Ms. Nidhi Khanna, Advocates**

For Respondent: **None**

ORDER

18.09.2019 Perused application and impugned order of ours dated 31.1.2019 and record. Heard Ms. Madhavi Divan - Sr. Advocate for the Applicant. Review Application has been filed on behalf of the Applicant - National Textiles Corporation who was not party to Company Appeal (AT) No.239 of 2018. The Company Appeal related to restoration of the name of the original Petitioner/Appellant - Lakshmirattan Cotton Mills Company Limited. Record shows that there was a litigation pending by way of Writ Petition in High Court between the Applicant and the original Petitioner - Lakshmirattan Cotton Mills Company Limited and during pendency of that Writ Petition before the High Court, the name of the Company came to struck off by the ROC.

2. The learned Counsel for the Applicant stressed that the original Petitioner Company was not in business and the ROC had given Notice and in spite of that, there was no response and the name of the Company had rightly been struck off by the ROC and that the same should not have been restored.

3. The Counsel submitted that the original Petitioners had themselves before the High Court stated that they were not running business for the

last 10 years and thus, business was not there, was an admitted fact. The Counsel submitted that only because litigation was pending that could not have been a ground for restoration of the name of the Company.

4. The learned Counsel is relying on Section 420 of the Companies Act, 2013 to submit that rectification of mistake apparent from record or amending the Order passed is permissible as Review. She also refers to Rule 11 of the National Company Law Appellate Tribunal Rules, 2016 to submit that Inherent Powers are there and the review is maintainable.

5. Section 420 relates to the powers of the Tribunal at the NCLT. There is no specific provision of review for this Appellate Tribunal to review its own Orders. Apart from that, our Impugned Order dated 31st January, 2019 read in para – 8 as under:-

“Relying on the above, the learned Counsel for Appellant has referred to the provisions of the Act of 1976 as well as the Nationalization Act before us to submit that what was taken over in 1976 was the management of the textile division of the Company and what was nationalized was that division and it did not include the other properties of the Company. According to him, the document at Annexure – A-13 dated 9th December, 1968, which is much before the Act of 1976, itself showed that the company had various properties which were giving income from rent also and thus according to him, those properties could not be mixed up with what was part of the textile division. He claimed that in any case, those disputes are pending in the Writ Petition before the High Court and it was inappropriate for the NCLT to enter into the merits of those aspects and decide on its own what was subject matter of disputes before the High Court.”

Para 10 read as under:-

“Our observations are for limited purpose of restoring name of Company. Naturally, Hon’ble High Court will take its own decision.”

Further observed in para – 11 as follows:-

“11. Looking to the disputes pending in the High Court, according to us, it would be appropriate to restore the name of the Company to the Register of Companies leaving all questions open for the Appellant and Respondents to dispute in the Writ Petition for final adjudication by the Hon’ble the High Court. Striking off of the name of the Company would create difficulties for the Appellant to pursue its remedies before the High Court and in the facts of the matter, when litigation was pending, the name of the Company should not have been struck off.”

6. Though referred for context and to see if NCLT’s order could be upheld or not, we looked into the matter but we have left the disputes between the present Applicant and original Petitioner which are subject matter of Writ Petition open and we have not decided those disputes between parties. Restoration of name of a Company is matter U/S 560(6) of the Companies Act, 1956 between the Company, Members or Creditors on one side and ROC on the other. Arguments of the learned Senior Counsel relating to merits of restoration cannot be entertained for want of locus standi of Applicant regarding those issues. Our views in Impugned Judgement in para 11 referred above is a legal view and we find no reason to entertain this application. We find no error in our Judgement. There

is no error apparent on record. As such, we find no reason to entertain this Application styled as Review Application. The same is rejected.

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

[Balvinder Singh]
Member (Technical)

/rs/nn