

NATIONAL COMPANY LAW APPELLATE TRIBUNAL**NEW DELHI****CONTEMPT CASE (AT) NO.21 OF 2019****IN****COMPANY APPEAL (AT) NO.74 OF 2018**

In the matter of:

Pravin Jain & Ors

Applicants

Vs

Diastar Jewellery Pvt Ltd & Ors

Respondents

Mr. Deepak Biswas and Ms Sanya Dua, Advocates for Applicants.

ORDER

02.09.2019- Heard learned counsel for the applicants. Learned counsel Mr. Dipak Biswas is submitting that inspite of the orders of this Appellate Tribunal which have been confirmed by the Hon'ble Supreme Court of India, the original Respondents No.2 and 3, Mr. Pramod Jain and Mrs Rachna Srimal are not complying with the directions given by this Tribunal and Contempt action needs to be initiated against them. It is stated that these Respondents are not cooperating even with the Independent Director, Respondent No.6. Learned counsel stated that what steps are taken up for investigation are also not known.

2. We have seen the various directions we have given in para 23 of our judgement dated 7th December, 2018. The matter has been remanded to the Learned NCLT, as we remitted back the matter with directions as were given at Para 23, A to F. We have held that original Respondent No.2 and 3 are guilty of oppression of the appellants and also guilty of mismanagement of the Respondent No.1. We have observed that at present stage passing directions Contempt Case No.21 of 2019 in CA(AT) No.74 of 2018

to wind up Company would unfairly prejudice the appellants and other members of the company and we have left that aspect open for Learned NCLT to consider at subsequent stage as we directed investigation into the affairs of the company. Apparently Learned NCLT has to take the further steps required in the company petition keeping in view our directions at sub-para B to F of para 23.

3. We have already directed that Independent Director will take over the Administration of the Company as well as its official and statutory records and the meeting of Board of Directors would require concurrence of the Independent Director. Apparently if the applicants have any grievance regarding Administration they should first move the Independent Director and if unsatisfied move the learned NCLT which selected him and appointed him. For execution of the directions, we have given, the applicants may move the Learned NCLT.

4. For the above reasons, we are not entertaining the present application for contempt, at present. The same stands disposed with observations as above.

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

(Mr. Balvinder Singh)
Member (Technical)