

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal(AT) No. 106 of 2018

IN THE MATTER OF:

Mr. Movva Vasu Rama Krishna & Anr.

...Appellants

Vs

LUIT Infratech Private Limited & Ors.

....Respondents

Present:

For Appellants: Mr. G. Ramakrishna Prasad, Advocate, for Mr. Wasay Khan, Advocate.

ORDER

16.04.2018 Learned Counsel for the Appellant submits that the impugned order passed by National Company Law Tribunal, Hyderabad Bench (hence forth referred to as "NCLT") in CA No. 220/2017 in CP No. 325/241/HDB/2017 erroneously records the date of pronouncement of order as 17.02.2018 while in fact, the impugned order was pronounced on 17.01.2018. It is pointed out that the certified true copy of the impugned order was made ready on 02.02.2018 which is clearly born out from the records. It is further pointed out that in the last paragraph of the impugned order a direction has been passed to list the connected CA No. 219/2017 on 05.02.2018. Learned Counsel for the Appellant has also filed documents indicating that the learned Counsel for the Appellant had approached NCLT, Hyderabad for correction of the date of pronouncement of the impugned order and the NCLT had entertained his application but does not appear to have carried out the rectification of error at the top of the order thought it has been certified that the impugned order was passed on 17.01.2018.

Learned Counsel for the Appellant has also placed on record certified copy of the extract of the outward dispatch register with the impugned order figuring at serial No. 3411 of page 55 of the register showing receipt of copy of the impugned order by the Appellant on 05.02.2018. These documents are taken on record. The appeal having been initially filed on 21.03.2018 within a period of 45 days from the date of receipt of the impugned order being made available to the Appellant, the same is within the period of limitation. Delay in refiling is condoned.

I.A. No. 381 of 2018 is disposed off accordingly.

The Appellant is aggrieved of dismissal of CA No. 220/2017 in CP No. 325/241/HDB/2017 in terms of the impugned order by virtue whereof, NCLT Hyderabad declined to accord consideration to the aforesaid Company Application on the ground that the main case was being taken up for disposal. Learned Counsel for the Appellant submits that reliefs of urgent nature were sought from the NCLT, Hyderabad which refused consideration of the application for interim relief without assigning any reason.

Having heard learned Counsel for the Appellant for a while, I find that Appellant had sought interim injunction restraining the Respondents from interfering with the functioning of the 1st Appellant as a Director of 1st Respondent Company besides restraining the Respondents from making an attempt to remove him from the Directorship of 1st Respondent Company. Learned Counsel for the Appellant while referring to the Interim Application, pointed out that Respondent No. 2 had inducted Respondent No. 4 as a Director without the knowledge of the 1st Appellant. It is further submitted that increase

of shareholding is the subject matter of the main Company Petition before the NCLAT.

Given the nature of dispute and the complexity of the issues involved, it was appropriate for the NCLT Hyderabad to take up the Company Petition itself for disposal rather than according consideration to interim applications raising substantial issues. No fault can be found on that score.

I find that the impugned order does not suffer from infirmity. NCLT, Hyderabad is within its right to focus on the controversy in the Company Petition and adjudicate the same without further loss of time.

Appeal is dismissed being without merit. However, it would be appropriate to direct NCLT Hyderabad to take up Company Petition for disposal expeditiously and ensure that the same is disposed of within one month.

Appeal disposed off.

[Justice Bansilal Bhat]
Member (Judicial)

Akc/Unk