

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) No. 378 of 2017

IN THE MATTER OF :

Mr. Abhishek Mohan Gupta

...Appellant

Versus

M/s. Jagran Prakashan Ltd. & Ors.

...Respondents

Present: For Appellant: Mr. K.M.Shukla, Advocate.

For Respondents: Mr. Amit Sibal, Senior Advocate, Mr. Dhruv Dewan, Mr. Kostubh Devnani and Mr. Arpit Gupta, Advocates.

ORDER

13.11.2017 – The Appellant/3rd Respondent has filed this appeal against the order dated 18th September, 2017 passed by National Company Law Tribunal (hereinafter referred to as “Tribunal”), Ahmedabad Bench, Ahmedabad in IA 271/2017 in TP No. 199/397-398/NCLT/AHM/2016, whereby and whereunder the application preferred by the Appellant/3rd Respondent under Rule 11 of the NCLT Rules seeking amendment including counter claim of Rs.58.93/- crores with interest @ 12% p.a. i.e. Rs. 33.93/- crores total amount being Rs. 92.9/- crores and for further counter claim in the nature of direction to the petitioner to unconditionally surrender 40% of the shareholding of Jagran Publications Pvt. Ltd. has been rejected.

2. Learned counsel appearing on behalf of the Appellant/3rd Respondent submitted that the application for amendment and counter claim has been rejected on wrong presumption and ground and is not in accordance with law. When confronted with the question as to how in a petition under Section 241 of the Companies Act, 2013 (earlier Sections 397 and 398 of the Companies Act, 1956) a counter claim is maintainable, learned counsel failed to reply.

3. Having heard learned counsel for the Appellant and learned counsel for the contesting Respondents, we find that prayer for bringing on record the subsequent development has already been allowed by the Tribunal and there is no provision under Section 241 of the Companies Act, 2013 to file any counter claim by the Respondents (other Members). For the reason aforesaid, when we were going to dismiss the appeal, learned counsel for the Appellant sought permission to withdraw the appeal.

4. Learned senior counsel appearing on behalf of the Respondents submits that the Appellant is lingering the Company Petition since long but as learned counsel for the Appellant sought permission to withdraw the appeal, without expressing any opinion with regard to the attitude of the Appellant/3rd Respondent, we allow the Appellant to withdraw the appeal. However, taking into consideration the fact that the Company Petition is pending for about ten years and as in terms of Section 422, the Tribunal is required to dispose of the matter preferably within three

months and because of the parties filing one or other Interlocutory Applications, the matter could not be taken up, we are of the view that the Tribunal should decide the case on an early date giving preference over those petitions which has been filed subsequently. We direct the parties to cooperate with the Tribunal for early disposal of the Company Petition. The Tribunal in its turn will decide the case expeditiously, without granting unnecessary adjournment, preferably within two months.

5. The appeal is dismissed as withdrawn with the aforesaid observations. No cost.

(Justice S.J. Mukhopadhaya)
Chairperson

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

(Balvinder Singh)
Member(Technical)

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