

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI**

**Company Appeal (AT) No. 332 of 2017**

**IN THE MATTER OF:**

**Tinnevelly Tuticorin Investments Limited** **...Appellant**

**Vs.**

**Amrex Marketing Private Limited & Ors.** **...Respondents**

**Present: For Appellant:- Ms. Vanita Bhargava, Mr. Nikhil Jhunjhunwala, Mr. Aseem Chaturvedi and Wamika Trehan, Advocates.**

**For Respondent: - Ms. Niharika Ahluwalia, Advocate for Respondent No.1.  
Mr. Moinak Bose and Mr. Vikas Mehta, Advocates for Respondent Nos. 3 and 4.**

**And Company Appeal (AT) No. 333 of 2017**

**B.R. Kuppuswamy & Anr.** **...Appellants**

**Vs.**

**Amrex Marketing Private Limited & Ors.** **...Respondents**

**Present: For Appellant:- Mr. Moinak Bose, Mr. Adith Sharma and Mr. Vikas Mehta, Advocates**

**For Respondent: - Ms. Niharika Ahluwalia, Advocate for Respondent No.1.  
Ms. Vanita Bhargava, Mr. Nikhil Jhunjhunwala and Mr. Aseem Chaturvedi, Advocates.**

**O R D E R**

**16.10.2017-** As both these appeals have been preferred by appellants against common order dated 16<sup>th</sup> August, 2017 passed by National

Company Law Tribunal (hereinafter referred to as “Tribunal”), Kolkata Bench, Kolkata in Company Petition No. 108 of 2017, they were heard together for disposal. By the impugned order, the application preferred by the 1<sup>st</sup> Respondent- M/s. Amrex Marketing Pvt. Ltd. & Ors. under Sections 58 and 59 of the Companies Act, 2013 has been allowed and the Appellant Company- M/s. Tinnevely Tuticorin Investments Limited has been directed to get the name of 1<sup>st</sup> respondent recorded in the Register of Members.

2. Learned counsel appearing on behalf of Appellants- B.R. Kuppuswamy & Anr. submits that the appellants, who were Respondents before the Tribunal have already filed a suit being OS No. 6291/2017 in the Court of the District Munsif, Tiruchirappalli for the declaration that the transfer of shares originally belonging to Appellants- B.R. Kuppuswamy & Anr. have been made in favour of the Respondents- M/s. Amrex Marketing Pvt. Ltd. & Ors. on misrepresentation and fraud played by said Respondents. It is submitted that if the impugned order is allowed to continue the suit will become infructuous.

3. Learned counsel appearing on behalf of the appellant company- M/s. Tinnevely Tuticorin Investments Limited referring to the impugned order dated 16<sup>th</sup> August, 2017 submits that the transfer of shares have not been executed in accordance with the provisions of the

law. However, learned counsel for the Appellant Company could not point out any defect in the transfer deed. Further, we find that the Tribunal has also taken into consideration the aforesaid facts and observed that no such specific defects have been shown.

4. Learned counsel appearing on behalf of the 1<sup>st</sup> respondent submits that there was no legal infirmity in the transfer of shares and the objection raised by Appellants- B.R. Kuppuswamy & Anr. is an afterthought. She further submits that the original share certificates have already been send to the Appellant Company- M/s. Tinnevely Tuticorin Investments Limited.

5. Having heard learned counsel for the parties and in view of the fact that the Appellants- B.R. Kuppuswamy & Anr. have accepted that the share certificates are with M/s. Amrex Marketing Pvt. Ltd. & Ors, we find no reason to interfere with the impugned order dated 16<sup>th</sup> August, 2017, passed by the Tribunal in CP. No. 108 of 2017.

6. So far Civil Suit preferred by the Appellants- B.R. Kuppuswamy & Anr., is concerned, we do not express any opinion. If the suit is allowed and transfer of shares are declared illegal, it is always open to the Appellants- B.R. Kuppuswamy & Anr. to move before appropriate forum for appropriate relief. Subsequent filing of suit cannot be a ground to interfere with the impugned order.

7. Learned counsel for the appellant submitted that the respondents may transfer the shares in this meantime. In this regard, while we do not express any opinion, the appellants- B.R. Kuppuswamy & Anr, who are the Plaintiffs in the OS No.6291/2017 may move for the Court for appropriate interim relief.

8. Both the appeals are dismissed with aforesaid observations. However, in the facts and circumstance of the case, there shall be no order as to cost.

(Justice S.J. Mukhopadhaya)  
Chairperson

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

(Balvinder Singh)  
Member(Technical)

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