

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) No. 406 of 2018

IN THE MATTER OF:

Tech Vulcan Solutions India Pvt. Ltd. & Ors. ...Appellants

Versus

Ajay Kumar Jain & Anr. ...Respondents

Present:

For Appellant : Mr. Rajendra Beniwal, Advocate

For 1st Respondent: Mr. Ajay Jain in person

ORDER

26.02.2019 Mr. Ajay Kumar Jain and Ms. Seema Jain, petitioners (respondent herein) filed an application under Section 235, 237, 397, 298, 402, 403 and 405 of the Companies Act, 1956 before the erstwhile Company Law Board which was transferred to National Company Law Tribunal, Bengaluru (for short, 'the **Tribunal**'). The case was taken up and it was decided on merit by the impugned judgment dated 31st July, 2018.

2. Learned counsel appearing on behalf of the appellant submits that after transfer of the case before the Tribunal, no notice was served on the appellants (respondent company before the Tribunal) and even the counsel for the petitioners (respondent herein) had not appeared. In absence of counsel for the petitioners (respondent herein) and the counsel for the respondents (appellant herein) the Tribunal decided the case on merit, which is not permissible in law. Mr. Ajay Kumar Jain, one of the petitioners appeared in person and submits that

he had written a letter to the Tribunal to exempt him from personal appearance, however after the transfer of the case, no notice was served on the appellant company. In the aforesaid circumstances, as the impugned order dated 31st July, 2018 passed is in violation of principles of natural justice without hearing the appellant company and in absence of the petitioners, we set aside the impugned order dated 31st July, 2019 and remit the case to the Tribunal to decide the case on merit after afresh notice to the parties. The appeal is allowed with aforesaid observations and no cost.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

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