NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) No. 112 of 2019 &
Interlocutory Application No.1882 of 2019

IN THE MATTER OF:

Mantena Raju Narasu .... Appellant

Vs

M/s Lexus Technologies Pvt. Ltd. & Ors. .... Respondents

Present:

For Appellant: **Mr. Nithin Chowdary Pavuluri and Mr. S. Chidambaram, Advocates.**

For Respondents: **Mr. Delep Goswami, Mr. Anirrud Goswami and Ms. Manjula Devi, Advocates for Respondent Nos.2, 3 and 4.**

Mr. Banshi Lal, Proxy Counsel for Mr. G.S. Rama Rao, Advocate for Respondent No.1.

O R D E R

27.09.2019 Heard Advocate Shri Nithin Chowdary Pavuluri for the Appellant, Advocate Shri Bansi Lal, instructed by Advocate Shri G.S. Rama Rao for Respondent No.1 and Advocates Shri Delep Goswami with Ms. Manjula Devi and Shri Anirrud Goswami for Respondent Nos.2 to 4.

2. This Appeal has been filed against interim order passed by the National Company Law Tribunal, Hyderabad Bench on 6th February, 2019, which reads as under

> *"Petitioners including consenting Petitioners claims that the shares in Pg.19 of the Petition ought to have been registered in their name. However, it appears that the said shares are wrongly remaining the name of R2 as per extract of Annual Returns filed by the Respondent Company for 31.03.2014 and 31.05.2015 showing as though R2 is holding 95.5% of the total share capital. Primarily it is a Petition for rectification U/s.59 of*

Companies Act, 2013 read with Sec.241-242 of the Companies Act, 2013. The Petitioners have satisfied this Tribunal that they are entitled under Sec.244 of Companies Act in terms of number of members even without considering their rectification prayer. Therefore, matter admitted.

The learned PCS pressed that there is need to pass some urgent orders in relation to the interim reliefs prayed. Counsel representing R4 and counsel for R7, R8 and R9 are present.

Having heard the submissions and having gone through the records placed, it is found that the Petitioners have made a prima facie case for interference of this Tribunal for passing orders in relation to some of the interim prayers:-

I. *Interim Prayer (a):- The Respondents are directed to maintain status-quo of shareholding pattern of the Company till further orders.*

II. *Interim Prayer (d):- Further the above Respondents are directed to maintain Status-quo regarding alienation or create any encumbrance in relation to the properties of the 1st Respondent Company.*

III. *Interim Prayer (b):- At this stage I am not inclined to appoint any Commissioner for the purpose as stated in the Interim prayer (b) at this stage, instead I direct the Respondents to produce all primary records/ documents as mentioned on or before 12.02.2019 with a specific list and file in the Registry for the purpose of verification by the Petitioners as required and prayed.*

Petitioner is directed to issue another notice to Respondents for their appearance, time granted for filing counter. Put up the matter on 18.02.2019."

3. Learned Counsel for the Appellant submits that when this order was passed, the Appellant who was Respondent No.2 in the Company Petition, was not heard and thus, the present Appeal was required to be filed. When the present Appeal was filed, This Tribunal on 16th May, 2019 passed the following order: -

"Having heard learned counsel for the appellant and being satisfied with the grounds, the delay of 42 days in preferring the appeal is condoned.

I.A. No. 1579 of 2019 stands disposed of.

Let notice be issued on the respondents by Speed Post. Requisite along with process fee, if not filed, be filed by 17th May, 2019. If the appellant provides the e-mail address of respondents, let notice be also issued through e-mail.

Post the case 'for Admission (After Notice) on 18th July, 2019.

Until further orders, operation of the ex parte impugned interim order dated 6th February, 2019 shall remain stayed. However, the proceedings may continue."

4. Learned Counsel for both the sides state that the matter has now been transferred to National Company Law Tribunal, Amaravati Bench, where in the Company Petition already further proceedings have taken place.

5. It is stated that the other Respondents have also appeared in the matter. The impugned order shows that while passing the order, the NCLT had heard Respondent Nos.4, 7, 8 and 9. As it is stated that the present Appellant and other Respondents have also appeared in the Company

Petition, it appears to us appropriate in the interest of justice that the Appellant and other Respondents, who were not heard when the impugned order was passed, should be heard by NCLT to appreciate the grievances of the Appellant and other Respondents, who were not heard.

6. We dispose the present Appeal with the following directions: -

(i) The matter is remitted back to NCLT at Amaravati Bench, Andhra Pradesh.

(ii) We direct the NCLT to hear Respondent Nos.1 to 3, 5 and 6 with regard to the impugned order dated 6th February, 2019 and after giving opportunity to these Respondents, the NCLT may either maintain the order dated 6th February, 2019 or may modify or pass any other suitable orders as deemed fit.

7. The stay granted by us on 16th May, 2019 will continue till 4th November, 2019, by which time, the NCLT is requested to further hear the parties as regard the impugned order dated 6th February, 2019 is concerned. The parties are expected to cooperate. In case, the NCLT finds that the parties are not cooperating, or for any other reason, interest of justice so requires, it would be open for NCLT to direct that stay after 4th November, 2019 will not continue.

The Appeal stands disposed of with the aforesaid directions. Pending Interlocutory Applications also stand disposed. No costs.

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

[Kanthi Narahari]
Member (Technical)

Ash/SK