

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) No. 290 of 2017

IN THE MATTER OF :

Erofab Exports Private Limited & Ors.

... Appellants

Versus

Gartex Insta Apparels Private Limited & Ors.

... Respondents

Present: For Appellants : Shri Anirudh Wadhwa and Shri Bhargav R. Thali, Advocates

ORDER

07.11.2017 This appeal has been preferred by the appellants/petitioners against order dated 14th September, 2017 passed by the National Company Law Tribunal, Bengaluru Bench (hereinafter referred to as 'Tribunal') in I.A. No. 80/2017 in C.P. No. 44/2017, whereby and whereunder the interim relief sought for by the appellants/petitioners has been rejected.

2. An Interlocutory Application was also filed on behalf of the appellants/petitioners alleging that the respondents have filed false information through a fictitious AOC-4 and MGT-7 for the financial years 2014-15 and 2015-16 with the Registrar of Companies (ROC) without the approval of the Board of Directors and the shareholders of the company, which is against the provisions of law. Other allegations were also levelled about giving wrong information by the respondents. Tribunal was requested to pass order restraining the respondents from taking any

coercive corporate action in absence of appellants/petitioners to direct the respondents not to file any returns, E-forms and papers with the ROC or Regulatory Authorities with further direction to ROC not to accept E-forms, AOC-4 and MGT-7 for the two financial years. Further prayer was made to direct the respondents to conduct the Board's meetings and EOGM afresh from the date of induction of some of the appellants (Petitioners Nos. 2 and 3) on the Board of Directors of the Company i.e. 18th August, 2015, and to declare the EOGM, if any, held without intimation to the appellants, as illegal.

3. The Tribunal on hearing the parties, noticed that the Appellant/1st Petitioner Company is holding 50% of the shares in the 1st Respondent Company and shares were duly transferred. It further noticed the stand taken by the respondents that in terms and conditions of the Memorandum of Understanding between some of the appellants (Petitioners Nos. 2 and 3), the appellants (Petitioners Nos. 2 and 3) ceased to be the Directors. For the said reason, their appointment were not confirmed in the EOGM. Taking into consideration the aforesaid fact, the Tribunal refused to grant any interim relief in favour of the appellants/petitioners.

4. Having heard the learned counsel for the appellants/petitioners, while we are not inclined to express any opinion with regard to the claim of the parties, including the appellants herein or the respondents, we are of the view that the original Company Petition should be decided

expeditiously in the light of Section 422 of the Companies Act, 2013. In such case, the Tribunal will decide the case on merit after hearing the parties uninfluenced by the impugned order dated 14th September, 2017.

5. It is expected that the Tribunal will decide the main Company Petition No. 44 of 2017 within two months without granting unnecessary adjournments to the parties. The appeal stands disposed of with the aforesaid observations. However, on the facts and circumstances of the case, there shall be no order as to costs.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

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