

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) No. 269 of 2017

IN THE MATTER OF:

Sudha Commercial Company Ltd.

.....Appellant

Vs.

Milkfood Ltd. & Ors.

.....Respondents

Present: For Appellant:- Mr. Kumarjeet Banerjee and Ms. Pratiksha Sharma, Advocates.

ORDER

24.08.2017- This appeal has been preferred by appellant/petitioner against the order dated 27th June, 2017 passed by National Company Law Tribunal (hereinafter referred to as "Tribunal"), Chandigarh Bench in Company Application Nos. 21 and 9 of 2016 in Company Petition No. 28/Chd/PB. /2016. By the impugned order, the petition for amendment filed by the appellant/petitioner has been partly allowed.

2. From the record and submissions on behalf of the appellant, we find that the Tribunal while allowed part amendment as were sought for, the prayer with regard to transaction of land which took place in the year 2007 has not been allowed.

3. On 21st August, 2017, Ld. Counsel for the appellant was asked to address the Court as to how the transaction of land taken place in the year 2007 can be taken into consideration in view of Limitation prescribed under Section 433 of the Companies Act, 2013.

4. Ld. Counsel appearing on behalf of the appellant submits that on wrong perception that the matter related to transaction of land took place in the year 2007, the Tribunal has rejected the part of the prayer as was made in the petition for amendment. According to Ld. Counsel for the appellant, certain acts of oppression has taken place subsequently with regard to shareholding of the members. However, such submissions cannot be accepted in view of the fact that the Tribunal only rejected the part of the petition for amendment relating to transaction of land as made in the year 2007. If any pleading has already been made by the appellant in the original Company Petition with regard to any change of shareholding etc., or in the petition for amendment as allowed, it is open to the appellant to raise all such issues during the final hearing.

5. In view of the fact that part of the amendment as sought for was barred by limitation, we are not inclined to interfere with the impugned order. The appeal is accordingly dismissed. However, in the facts and circumstances, there shall be no order as to costs.

(Justice S.J. Mukhopadhaya)
Chairperson

(Balvinder Singh)
Member(Technical)

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