

IN THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL

NEW DELHI

Company Appeal (AT) No. 94 of 2017

Siddarth Jhawar & Anr.

.... Appellants

Vs.

Anugar Jhawar & Anr.

.... Respondents

Present: For Appellants: - Mr. A.K.Srivastava with Mr. Shkeel Mohammed and Ms. Manjulika Pal, Advocates

For Respondents: - Mr. Rajiv Bansal, Sr. Advocate with Mr. Nirnimesh Dube, Ms. Swapna Choubey, Ms. Shweta S.parihar and Mr. Anurag Tripathi, Advocates

03.04.2017- The appellant has challenged the Order dated 16th February 2017 passed by National Company Law Tribunal, Kolkata Bench (hereinafter referred to as the 'Tribunal') in C.P.No. 04/2016/482A. By the impugned order, Tribunal while holding 'Oppression and Mismanagement' as were alleged by both the parties against one or other, passed preliminary decree for updation of account and audit for valuation of the entire movable and immovable assets of the company. Both the groups of the shareholders are being directed to provide names of an independent auditor with their consensus within seven days and the auditor has been requested to audit the company for the financial year 2014-15 and 2015-16 and to submit the report.

Learned counsel for the respondents submits that in the meantime both the parties have complied with the order passed by the Tribunal by providing the name of independent auditor.

Learned counsel appearing on behalf of the appellant submitted that the auditor should be directed to submit its report at an early date and only after hearing the parties on such report and merit the Tribunal should pass appropriate final decree.

Having heard learned counsel for the parties we are of the view that the Tribunal should conclude the proceedings at an early date in view of Section 422 of Companies Act, 2013.

If no report has been submitted, the auditor should be requested to submit the report at an early date. Thereafter on hearing the parties the Tribunal will decide as to whether the report submitted by the auditor should be accepted or not and then pass final order in the Company Petition uninfluenced by any earlier observation made by the Tribunal.

The appeal stands disposed of with the aforesaid observations and directions. However, in the facts and circumstances, there shall be no order as to cost.

(Justice S.J. Mukhopadhaya)
Chairperson

(Mr. Balvinder Singh)
Member(Technical)