

IN THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) No. 96 of 2017

Thirumangalam Janopkara Permanent Fund Ltd. Appellants

Vs.

P. Krishna Moorthy & Ors. Respondents

**Present: For Appellant: **Mr. Delep Goswami & Mr. Anirrud
Goswami, Advocates****

For Respondents:

ORDER

10.04.2017

The Appellant has preferred this appeal against order dated 7th March, 2017 passed by the National Company Law Tribunal, (hereinafter referred to as 'Tribunal'), Chennai Bench, Chennai in TCP No.35/2016. In the impugned order, the Tribunal has granted time to the respondent to bring detail plan for the revival of the Respondent No.1 Company and the Petitioner have been directed to file petition.

We have noted that if petition has been preferred by Petitioner under section 397, 398 & 402 of the Company Act, 1956 and pending since 2009 now more than 8 years have passed, but the case has not yet been decided. On the other hand the Tribunal which was required to decide the case within three months under section 422 of the Companies Act, 2013 is granting adjournment and allowing the parties to submit detail plan for revival of the Company.

In a petition under section 397, 398 & 402 once the Tribunal come to the conclusion that there is oppression and mismanagement, it has ample power to pass appropriate order under section 402 of the Companies Act, 2013. In such cases, it is not necessary ask one or other party to file petitions which may delay the process of disposal. In this case as the petition is pending for 8 years, Tribunal was required to dispose of the petition at an early date on merit.

However, as the time period for submitting the plan for revival has come to end, instead of interfering with the impugned order, remit the case to the Tribunal to decide the Company Petition on merit preferably by 16th May, 2017.

The Appeal stands dispose of with the aforesaid observation and direction.

(Justice S.J.Mukhopadhaya)
Chairperson

(Mr. Balvinder Singh)
Member (Technical)

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