

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) No. 12 of 2020

IN THE MATTER OF:

Asim Kumar Misra

...Appellant

Versus

**M/s. Sarkar & Chowdhury Enterprises
Pvt. Ltd. & Ors.**

...Respondents

Company Appeal (AT) No. 13 of 2020

IN THE MATTER OF:

Supratim Ghosh

...Appellant

Versus

**M/s. Sarkar & Chowdhury Enterprises
Pvt. Ltd. & Ors.**

...Respondents

Company Appeal (AT) No. 14 of 2020

IN THE MATTER OF:

Anirban Chowdhury

...Appellant

Versus

**M/s. Sarkar & Chowdhury Enterprises
Pvt. Ltd. & Ors.**

...Respondents

Company Appeal (AT) No. 15 of 2020

IN THE MATTER OF:

Susmit Bandhopadhyay

...Appellant

Versus

**M/s. Sarkar & Chowdhury Enterprises
Pvt. Ltd. & Ors.**

...Respondents

Company Appeal (AT) No. 16 of 2020

IN THE MATTER OF:

Shankar Kumar Chakravorty

...Appellant

Versus

**M/s. Sarkar & Chowdhury Enterprises
Pvt. Ltd. & Ors.**

...Respondents

Company Appeal (AT) No. 18 of 2020

IN THE MATTER OF:

Debdut Datta

...Appellant

Versus

**M/s. Sarkar & Chowdhury Enterprises
Pvt. Ltd. & Ors.**

...Respondents

Present:

For Appellant :

**Mr. Indranil Ghosh, Mr. Palzer Moktan and
Ms. Arushi Arora, Advocates**

O R D E R

23.01.2020 These appeals have been preferred by the Appellant(s) against the order dated 11th December, 2019 passed by the National Company Law Tribunal, Kolkata Bench, Kolkata.

2. The impugned order dated 11th December, 2019 fell for consideration in ***'Mackintosh Burn Ltd. vs. M/s. Sarkar & Chowdhury Enterprises Pvt. Ltd.***

& Anr.” – ‘Company Appeal (AT) No. 02 of 2020’ wherein this Appellate Tribunal by order dated 10th January, 2020 refused to entertain the said order with the following order :-

“10.01.2020 After the order of this Appellate Tribunal passed on 6th January, 2020, personal appearance of the Directors of the Appellant has been dispensed with as they have given undertaking of the compliance before the ‘National Company Law Tribunal’ Kolkata Bench, Kolkata (**‘Tribunal’**, for short). The Tribunal by order dated 7th January, 2020 passed the following order:

‘Ld. Sr. Counsel for the petitioners appears. Ld. Sr. Counsel for the respondents appears.

In pursuance of the notice issued in Cont. a. No. 1681/KB/2019, all the non applicant contemnors are present in person. Ld. Counsel for the Directors repeatedly sought for leave to file reply affidavit challenging the maintainability of the contempt application and also press for hearing of the Misc. A. No. 02/KB/2020 which is review petition filed challenging the order in CP dated 11/12/2019. Till date no appeal has been preferred in CP No. 151/2014.

Vide order dated 27/08/2019, we appointed a Special Officer directing him to take appropriate steps to register transfer of shares fully mentioned

in the letter dated 02/07/2014 as mentioned in the order. Efforts of Special Officer in registering the transfer as directed has not been completed due to the alleged non-cooperation on the side of the directors of respondent no. 1 company. According to the Ld. Counsel, it was because no proper notice had been given by the Special Officer. Today, when the case came up for consideration, Ld. Counsel appearing for the directors submits that Special Officer before approaching the Directors may give prior notice so that the order could be complied, subject to the challenge of the respondents regarding the maintainability of contempt petition, as well as order on the review petition.

Subject to the above said observations, we direct the Special Officer to register transfer of shares in compliance of the directions given in the order dated 27/08/2019. Special Officer has to report at the Corporate Office of the respondent No. 1 Company located at Salt Lake City on 14/01/2020 at 11 A.M. Directors are directed to cooperate with the Special Officer vide order dated 18/09/2018 and transfer the shares subject to the outcome of the challenge of the respondents regarding the maintainability of contempt petition as well as review petition. For the

time being personal appearance of the directors of respondent no. 1 company is dispensed with.

Ld. Sr. Counsel for the respondents further prays that no third party interest will be created upon transfer of shares by the transferee of shares.

List the contempt application and the review petition on 21/02/2020 at 12 O' Clock."

In the circumstances, we are not inclined to interfere with the impugned order dated 11th December, 2019 nor inclined to issue any direction to the Tribunal.

The appeal stands disposed of. No order as to costs."

As these appeals are covered by the above decision of this Appellate Tribunal, these appeals are disposed of. No order as to costs.

[Justice S.J. Mukhopadhaya]
Chairperson

[Shreesha Merla]
Member (Technical)

/ns/RR/