

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI
COMPANY APPEAL (AT) NO.193 OF 2018

(ARISING OUT OF IMPUGNED ORDER DATED 23.02.2018 PASSED BY NATIONAL COMPANY LAW TRIBUNAL, HYDERABAD BENCH, IN CP NO.16 OF 2013 (T.P.NO.8/HDB/2016))

IN THE MATTER OF:

Before NCLT

Before NCLAT

- | | | |
|---|----------------------------|----------------------------|
| 1. B. Sudhakar Reddy
S/o Venkat Ramreddy,
H.No. 13-17/2, Maruthi Nagar,
Near Yadagiri Theatre,
Santosh Nagar,
Hyderabad 500089 | 4 th Respondent | 1 st appellant |
| 2. Mr A. Mahesh,
S/o Narayana,
H.No.8-1-60.5.501m SVS Complex,
Karman Ghat,
Hyderabad 500079 | 5 th Respondent | 2 nd appellant |
| 3. Mr. T Achary,
S/o Ramulu,
H.No.10-108/1,
Venkateswara Colony,
Amangal (Post, Village & Mandal)
Mahboob Nagar 500321 | 6 th Respondent | 3 rd appellant |
| 4. N. Srinivas,
S/o R. Venkaiah,
Flat No.302, Loukya Apartments,
Asmangadh, Malakpet,
Hyderabad 500036 | 7 th Respondent | 4 th appellant |
| Vs | | |
| 1. Mr B. Manipal Reddy,
S/o B. Narayan Reddy,
R/o Plot No.171, H.No.42-281/2 Maruthi Nagar,
Moula Ali, Hyderabad 500040 | 1 st Petitioner | 1 st Respondent |
| 2. Mr. G. Alwal Reddy,
S/o G Chinna Reddy,
Post & Village Revally,
Midjil (Mandal), Mahboob Nagar,
Telangana. | 2 nd Petitioner | 2 nd Respondent |

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| 3. M/s Palamoor Agro Complex Ltd,
Regd Office at H.No.1-70/G, Vasavi Residency
(Near GBR Hospitals) Prabhat Nagar,
Chaitanya Puri,
Hyderabad 500038 | 1 st Respondent | 3 rd Respondent |
| 4. Mr S. Ramesh Reddy,
S/o Papi Reddy,
Plot No.92, Road No.3,
Green Hills Colony,
L.B. Nagar, Hyderabad 500035 | 2 nd Respondent | 4 th Respondent |
| 5. Mr. R. Manohar Rao,
S/o Lakshmi Narasimha Rao
House No.1-64, Station Road,
Valigonda
(Post , Village & Mandal),
Nalgonda Distt 508112 | 3 rd Respondent | 5 th Respondent |
| 6. Mr. G. Mahender Reddy,
S/o G Venkat Reddy,
Urumudla (Post & Village),
Chityala Mandal,
Nalgonda Distt. | 8 th Respondent | 6 th Respondent |
| 7. The Regional Director
(South Eastern Region),
Ministry of Corporate Affairs,
3 rd floor, Corporate Bhavan,
GSI Post,
Nagole, Bandlaguda,
Hyderabad 500068 | 9 th Respondent | 7 th Respondent |
| 8. The Registrar of Companies,
2 nd floor, Corporate Bhavan,
GSI Post,
Nagole, Bandlaguda,
Hyderabad 500068 | 10 th Respondent | 8 th Respondent |
| 9. The Serious Fraud Investigation Office,
Ministry of Corporate Affairs,
2 nd Floor, Paryavaran Bhavan,
CGO Complex, Lodhi Road,
New Delhi-110003. | 11 th Respondent | 9 th Respondent |
| 10. The Secretary,
Ministry of Corporate Affairs,
Government of India, | | |

5th floor, A-Wing, Shastri Bhavan,
Dr Rajendra Prasad Road,
New Delhi-110001

12th Respondent 10th Respondent

Mr Yogesh Raavi, Ms Snigdha Singh, Mr A Venkateshwar Reddy, Advocates for appellant.

Mr Nikhil Nayyar, Sr. Advocate with Mr. Diyanshu Rai, Advocate.

Mr Amit Acharya, Advocate appearing on behalf of Mr. Sanjib K Mohanty, Sr. Panel Central Govt Counsel for UOI, R7,8 and R10.

Mr. M.L. Sharma, Advocate for R4 and R5.

Mr. Ashim Sood, Ms Senu Nizar, Advocates for R9.

JUDGEMENT
(31st JANUARY, 2020)

MR. BALVINDER SINGH, MEMBER (TECHNICAL)

The present appeal has been filed by the appellants under Section 421 of Companies Act, 2013 against the impugned order dated 23.02.2018 passed by the National Company Law Tribunal, Hyderabad Bench, Hyderabad in C.P. No.16 of 2013.

2. The brief facts of the case are that the company petition was filed by the Respondent No.1 and 2 (original petitioners) against Respondent No.3 (original Respondent No.1) and others under Sections 397, 398, 111A read with provisions 402 and 403 of the Companies Act, 1956 for oppression and grave mismanagement to the detriment of Respondent No.3 (original Respondent No.1).

3. Respondent No.3 company was incorporated on 11.5.1994 with the 1st, 2nd, 4th, 5th Respondent and 4 other members as subscribers of the memorandum of association of the Company 1st, 4th and 5th Respondents were the first directors of the company and pre-incorporation and incorporation expenditure was borne solely by 1st Respondent. The original petitioners hold 25% of the outstanding paid up share capital of the

Respondent Company and original 1st petitioner is Promoter –Director of the company. The original petitioners acquired 99 Acres of land at Revally and Urukonda villages of Mahaboob Nagar Distt and advance of Rs.6 lac to land owners in October 1993 was paid, out of which Rs.2 lac was contributed by the original 2nd and 3rd respondent and to establish manufacturing unit, original 1st petitioner acquired 4.20 acres at Kadthal Village Mahboob Nagar at the rate of Rs.60,000/- per acre and paid Rs.1,00,000/- as advance by the original 1st petitioner before the incorporation of company. The original 1st Petitioner was constrained to pump investment from 25 investors to a total extent of Rs.12,45,000/- as share application money.

4. It is stated that the total cost expended in purchasing the lands of the company is Rs.16,05,719/-. As the company could not succeed in launching the business activity, original 2nd and 3rd Respondent failed to bring further investment, the Respondent company became finally crippled, the company failed to return the money on which the original 1st petitioner constrained to pay back Rs.4,20,000/- part of the company liability through his personal account as well as by borrowing from friends. It is stated that the borrowers who were unpaid, filed civil and criminal cases against Company and original 1st petitioner was defending long drawn legal battles by incurring expenditure personally whereas the original 2nd and 3rd Respondent remained silent and did not cooperate with original 1st petitioner. It is stated that the original 1st petitioner underwent number of civil and criminal cases and was also convicted in six criminal cases on behalf of Company and underwent imprisonment for 9 months and also repaid Rs.7,20,000/- to various creditors of the Respondent company. It is stated that after filing petition in

Hon'ble High Court, the original petitioner settled creditors of the Company to extent of Rs.1,30,000/-. It is stated that Respondent No.2 and 3 colluding with original Respondent No.4,5,6 and 7 and Chartered Accountant filed balance sheet and annual returns from financial year 1994-95 to 1999-2000 without the knowledge of original 1st petitioner who was also promoter director of the and also filed one Form 32 on 7.10.2002 for appointment of Respondent No.4,5,6, and 7 as directors and for the removal of original 1st petitioner as the Director of the company. The original 1st petitioner made complaint to ROC and RD for his removal and appointment of Respondent No.4,5,6 and 7 as directors and allotment of shares to original Respondent No.2 to 8, falsification of accounts of the company and filing of false balance sheet.

5. It is stated that the Respondent did not file reply, Ministry of Corporate Affairs ordered inspection of the Company under Section 209 of the Companies Act, 1956. It is stated that the original Respondent failed to submit records and appear before the ROC, ROC submitted its report pointing out various violations against company and Respondents and on 9.3.2006 without any approval from the members of the company, original Respondent No.2 and 3 sold away the company property and misappropriated entire sale proceeds by suppressing the fact that above property was already attached by the Hon'ble City Civil Court, Hyderabad. It is stated that the SFIO conducted the inspection and submitted its report on 29.2.2012. In the report it is stated that original Respondent No.2 to 7 falsified the accounts, unsecured loan, contribution to equity etc are false, allotment of equity shares was fraudulently allotted without any payment to

the company and report explicitly elaborates on various acts of oppression and mismanagement.

6. Original Respondent No.1, 4-7 filed their counter for the petition filed by the original petitions. Respondents stated that the authorised capital of the company was Rs.60,00,000/- and the company had 8 shareholders holding 10 shares each. Therefore, the paid up share capital as on date of incorporation of the company was Rs.800/- divided into 80 shares of Rs.10/- each. The company had as per Articles of Association three directors namely original 1st petitioner and original Respondent No.2 and 3. It is stated that the Mr. APBS Sastry was the auditor of the company from the year 1994 to 2006. No Board Meeting and general Meeting were held in accordance with law during the tenure of original 1st petitioner as a Director of the Company alongwith original Respondent NO.2 and 3. It is stated that original 1st petitioner resigned from the Board in 2001 and made complaint before the ROC and RD, Hyderabad in the 2003.

7. Original Respondent No.11 (SFIO) filed its reply before the NCLT and stated that Respondent Company was not functioning as per the provisions of Companies Act, 1956 right from the beginning and promoter director especially Mr. B. Manpal Reddy was compelled to arrange funds through borrowings initially by way of Share Application Money (later converted to loans) with meagre finance available with the company. Respondent company was left with no working capital to run its operations and promoter directors did not maintain any records or documents including the accounting records in compliance of the regulatory and legal requirements. Most of the transactions were carried out in cash and the investigation was

helpless in verifying such transactions in absence of any cash book. No board meeting was held and the promoters directors resigned in the year 2001. The new board also failed to act in their fiduciary capacity to safeguard the interests of the Company and breached the faith of the company. The new management also engaged in falsifying the books of account not only for the period prior to their incumbency but also thereafter. During the investigation, most of the directors also confessed that no books of accounts were maintained by the company and preparation of annual statement of accounts and annual return filed with the ROC. It is also revealed that the sale proceeds of the land owned by the Respondent company were also misappropriated by two of its directors original Respondent No.2 and 6.

8. Respondent No.4 and 5 stated that before incorporation of the company, 1st respondent negotiated and acquired 99 acres of land and paid Rs.6 lacs as advance in October, 1991. It is stated that 1st Respondent also acquired 4.20 guntas of land and paid Rs.1 lac as advance to the land owners. It is stated that 4th Respondent subscribed 10 equity shares each and invested Rs.1,90,000/- It is stated that Respondent No.5 invested Rs.1,60,000/- in the company. 1st Respondent invested an amount of Rs.7 to 8 lakhs in December, 1994 and brought further investment from his friends and relatives an amount of Rs.15 lacs and paid balance amount to the land owners and got the land registered in the company's name in 1995. It is stated that as the investors could not be repaid in time, 1st respondent was involved in long drawn litigations and the project of the company could not take off and statutory compliances could not be made by the company. It is stated that 1st appellant approached 4th respondent to invest in the

company and for reviving of the company. It is stated that in the year 2003, 4th Respondent introduced the appellants to 5th Respondent who assured that all the liabilities of the company would be cleared and stated that a settlement would be drawn with 1st respondent for the amount paid by him. It is stated that under the circumstances 4th and 5th Respondent had no choice but to accept the offer of 1st appellant to revive the company and to repay the creditors and return all investments made by 1st respondent in the company. It is stated that in these process, 1st appellant asked 4th and 5th Respondent to sign several documents including a blank Form 32 and also informed that the company is required to file the annual returns and balance sheets to regularise the company and for bringing in their investments into the company. It is stated that the balance sheets were prepared by the Chartered Accountant and believing the words of 1st appellant, 4th and 5th Respondent signed these documents without verifying the contents of the said documents. It is stated that in October, 2003 , 4th and 5th Respondent received notice from ROC alongwith complaint filed by 1st respondent asking 4th and 5th Respondent to give parawise reply, they came to know about the contents of the annual returns and balance sheets for the years 1994-95 to 1999-2003. It is stated that 4th and 5th Respondent acted in good faith and in the interest of the company and without any ill motive. It is stated that the appellants never brought any amount in the company. It is stated that appellants in collusion with the Chartered Accountant filed Form No.2 one on 16.4.2007 and another on 17.4.2007 showing as if the company allotted shares on 28.3.1995 and 30.3.1998. It is stated that these fraudulent forms were filed only after complaints made by 1st Respondent with ROC which

clearly nails the fraud committed by 1st appellant in collusion with the Chartered Accountant by misusing the Digital signatures of 4th respondent. It is stated that the appellants never invested in the company and the allotments shown in the list of shareholders in the annual returns for the year 1995-2006 are entirely false. It is stated that 1st, 4th and 5th Respondent were the only three directors in the company, 4th and 5th Respondent have no knowledge about the allotment of shares and annual returns filed by attaching a list of shareholders which was not signed by 4th and 5th Respondent. It is stated that the 4th and 5th Respondent have no knowledge about the meeting alleged to have been held on 7.10.2002 for appointment of the appellants as directors as they did not receive any notice of the above meeting. It is stated that it is falsely shown that the Respondent No.4 had given any loan and 1st appellant did not bring any amount. It is stated that the appellant did not bring any amount but they sold the company's land situated at Kadthal Village for the sale consideration of Rs.32 lakh. It is stated that mediator Mr.D. Narshimha Reddy and others received Rs.30 lakhs from Chalapathi Estates, the buyers. It is stated that the appellants are responsible for selling the company's land at throw away price by colluding with Mr. D. Narshimha Reddy and thereby causing loss to the company. It is further stated that after receiving the sale consideration these appellants did not pay to the creditors of the company and did not release the court attachments as promised. It is stated that the whole case of the appellants has been based on the MOU dated 29.11.2001(Page 98 of appeal) but the MOU is among the original three directors namely 1st, 4th and 5th Respondent and has nothing to do with the appellants. The MOU is about acceptance of the liabilities of the Respondent

Company by these three directors to certain persons not the appellants and custody of documents relating to the properties of company. It is stated that the MOU does not talk about transfer of entire management and shareholding of the company to the appellants. It is stated that there is no evidence at all of any investment having been made by the appellants. It is stated that it is baseless to contend that the impugned order is entirely based on the SFIO's report.

9. After hearing the parties, NCLT passed the following order:-

“k) Considering the precarious position of the company and various litigations, criminal cases filed against director(s) of the Company etc considerable time spent by Investigating Agencies, SFIO and other agencies, to send a signal to the parties to avoid misuse of various authorities/functionaries, misappropriation, fraudulent action, non complying with various provisions of the Companies Act, not conducting Board Meetings, AGM's not finalising the Annual Returns/Balance Sheet etc the Bench inclined to levy a cost of Rs.2,00,000/- (Rupees Two lakhs only) on each on the Respondents 1 to 8 and the same has to be remitted to the Prime Minister's Relief Fund within 3 weeks from the date of receipt of a copy of this order and report compliance of the same to the Registry, NCLT. “

11. Being aggrieved by the impugned order the appellants have preferred this appeal.

12. Appellant stated that the Tribunal has decided the company petition solely relying on the SFIO's report. It is stated that SFIO in its report has stated that its findings and analysis are severely handicapped due to lack of

sufficient material in view of non-maintenance of books and registers from 1994 to 2001.

13. It is stated that the Tribunal relied on the SFIO report and further stated that all the 26 prosecution complaints initiated by SFIO resulted in acquittal of the appellants.

14. It is stated that the Tribunal only considered the observations against the appellants and not even adverted to the findings against the Respondents.

15. It is stated that the company petition was barred under the doctrine of delay and laches as the Respondent No.1's cause of action relates to 2003 and 2006 whereas the company petition was filed in the year 2013.

16. It is stated that the company petition was barred for non-joinder and misjoinder of parties.

17. It is stated that the company petition was barred under the principles of estoppel and res judicata as the entire matter was earlier contested by Respondent No.1 before the Hon'ble High Court in Company Petition No.85 of 2006 which was dismissed for default, thus attaining finality.

18. Appellant stated that the SFIO's report categorically stated that Respondent No.1 on his own volition scribed and executed his resignation letter and MOU dated 29.11.2001. Appellant stated that the letter of resignation and MOU was a part of a larger comprehensive understanding whereby the appellants were to eventually take over the entire company, including its liabilities.

19. Appellant stated that the promoter directors are guilty of severe lapses in the management of Respondent No.3 company from 1994 to 2001.

Appellant stated that the promotor directors did not maintain any books or complied with the regulatory requirements prior to 2001.

20. Appellant stated that the allotment of shares made on 28.3.1995 and 30.3.1998 were made after the appellants came into the management of Respondent NO.3 company.

21. Appellant stated that the SFIO selectively proceeded against the appellants despite concluding that several lapses are attributable to Respondent No.2.

22. Appellant stated that the SFIO limited its enquiry till 2006 without seeing that several changes in shareholding and management occurred even after 2006 till 2013.

23. Appellant stated that the shareholding showing the appellants' shareholding, including the allotments made on 28.3.1995 and 30.03.1998 were duly depicted in the statutory filings undertaken after the appellants came into the management. Respondent No.1 did not file any statutory returns during the years 1995 and 1998 when he was managing the Respondent No.3 company.

24. Appellant stated that the Respondent No.1 resigned and scribed an MOU sought to renege from the whole arrangement, with an objective to regain the entire shareholding and management of Respondent No.3 company.

25. Appellants stated that the SFIO grossly erred in holding that the appellants have misappropriate the funds resulting from the sale of 4.30 acres land and the direction of the NCLT to appellants to deposit Rs.32 lakh with an interest of 12% per annum is completely erroneous and incorrect.

26. Appellant stated that the company petition filed by the Respondent No.1 is hopelessly barred by delay and laches. Respondent No.1 came to know about the entire circumstances of events as early as 2003 and the other allegations pertaining to the sale of company's land also occurred in 2006 and the company petition was filed in 2013.

27. Appellant stated that the Respondent No.1 is already contesting several civil/criminal proceedings with respect to the same subject matter as was alleged in the company petition. Respondent No.1 clearly is forum shopping, hoping to get some or other order from each Court/Tribunal based on the same facts and circumstances.

28. Appellant stated that the Respondent No.2 joined Respondent No.1 in Company Petition only to purport satisfaction of the mandatory requirements under Section 399 of the Companies Act. It is stated that Respondent No.2 is none other than the father in law of Respondent No.1 to whom 10 shares were allotted in the year 1994 during incorporation.

29. Reply affidavit has been filed by the Respondent No.1 and 2. It is stated that the investigation was conducted by SFIO as per Section 237 of the Companies Act, 1956 pursuant to the directions of Hon'ble High Court of Andhra Pradesh in CP No.109/2008.

30. It is stated that the company was incorporated by Respondent No.1,2, 4 and 5 and 4 other members as subscribers of the Memorandum of the company. It is stated that only the Respondent No.1 invested after borrowing from 25 investors to a total extent of Rs.12,45,000/- as share application money into the company and got the lands to the extent of Acres 4.30 Guntas at Kadthal Village and about 99 Acres of land at Revally and Urukonda Villages

of Mahabubnagar Distt and registered in the name of company during the period from January, 1995 to May, 1995. The total cost expended in purchasing the lands of the company is Rs.16,05,719/-. All this money was repaid by the Respondent No.1 between 9.2.1997 to 11.3.1997 through his personal account as well as by borrowing from friend. The unpaid investors filed civil/criminal suits against the Respondent No.1 and Respondent No.1 paid Rs.7,20,000/- (in addition to Rs.4,20,000/- already paid) to various creditors and also settled with creditors of the company to the extent of Rs.1,30,000/- on 17.7.2014, as the creditors obtained sale order of 14 acres of company property.

31. It is stated that the in 2001 the appellant and Respondent No.4 contacted Respondent No.1 and assured him that they would repay the entire investments made by the Respondent No.1 by inviting other investors into the company to revive the company. As part of this arrangement Respondent No.1 resigned as director of the company on 29.11.2001 and handed over the resignation letter to Respondent No.4. It is stated that Appellant and Respondent No.4 and 5 in connivance with one Chartered Accountant filed Balance Sheets and Annual Returns forms on 2.5.2003 for the financial years 1994-95 to 1999-2000 without the knowledge of Respondent No.1. The appellants also filed one Form 32 on 7.10.2002 for appointment of the appellants herein as the directors and the removal of Respondent No1 as the director of the company without approval of the Board.

32. Respondent No.1 stated that he made a complaint on 8.9.2003 to the ROC and Regional Director about the removal of Respondent No.1 as director and appointment of Appellant as director, fraudulent allotment of shares to

Respondents No.2 to 8, falsification of accounts of the company and filing of false Balance Sheets. The appellants failed to submit the relevant information, despite several notices by the ROC seeking explanation. It is further stated that without any approval from the members of the Company, the Appellants sold away the admeasuring Acre 4.20 guntas situate in Kadthal Village in Mahabubnagar District at throw away price and misappropriated the entire sale proceeds. It is stated that the appellants executed the sale by suppressing the fact that the said property was already attached by City Civil Court, Hyderabad in OS 941, 942 and 943 of 1999.

33. It is stated that Respondent No.1 filed Company Petition No.109/2008 before Hon'ble Andhra High Court seeking direction to investigate the affairs of the Company. The company petition was allowed and direction was given to investigate the affairs of the company. It is stated that the investigation was carried out and it was reported that appellant and Respondent No.4 and 5 had falsified the accounts and allotment of equity shares was fraudulent done without any payment to the company etc. SFIO was directed to take penal action against the appellant and the chartered accountant. It is stated that the appellants were involved in a series of fraudulent acts like falsifying the accounts, allotment of shares to themselves without any payment and without approval from Board and selling the Company's properties without approval and misappropriating the funds of the company, therefore, Respondent No.1 approached Company Law Board, Chennai Bench under Sections 397, 398 and 111A read with Section 402 and 403 of the Companies Act, 1956. It is stated that the Respondent No.1 did not approach the

Company Law Board solely on the ground that an investigation into the affairs of the company by SFIO has taken place.

34. Respondent No.1 stated there was no reason to implead Mr. Sastry as a party as the petition was filed under Section 397/398 against the appellants. Neither relief was sought against Mr. Sastry nor any relief was granted.

35. Respondent No.9 stated that SFIO is expected to be a multi-disciplinary organisation consisting of experts in the field of accountancy, forensic auditing, law, information technology, investigation, company law, capital market and taxation for detecting and prosecuting or recommending for prosecution white collar crimes/frauds. Respondent No.9 stated that it carried out investigation under Section 235 to 237 of the Companies Act.

36. We have heard the learned counsel for the parties and perused the record.

37. It is not in dispute that the Hon'ble High Court of Andhra Pradesh vide its order dated 07.07.2011(Page 155 of the appeal) directed the Central Government to investigate into the affairs of the company. The investigation was done and the report stated that right from the incorporation the affairs of the company were not running as enshrined in the provisions of the Companies Act but was running like a fiefdom of the promoter directors. No record is maintained, including the books of accounts, to comply with the regulatory and legal requirements and most the of transactions were being carried out in cash and the Inspectors were helpless in verifying such transactions in absence of any cash book, accounting ledgers etc.

38. We also note that as per Section 223 Companies Act, 2013 the report submitted by any inspector appointed by the Central Government, shall be admissible in any legal proceeding as evidence in relation to any matter contained in the report.

39. We note that the balance sheet and annual returns for the years 1994-95 to 1999-2000 were not filed in time and the same were filed by later on in 2003. We also note that no Board Meetings was conducted and Annual Return were not finalised in AGMs. This position has been admitted and it is also admitted that no record for the same was maintained.

39. We also note that the assets of the company situated at Kadthal Village were sold by appellants at throw away price in collusion with Mr. D. Narshimha Reddy and did not pay to the creditors of the company and also did not release the court attachments as promised.

40. We have also noted that though Respondent No.1 disputed the report taking evidence has submitted that his resignation is a genuine one. Admittedly since inception, Respondent No.1 has been the Managing Director of the Company and no return has been filed till 2001. No records were maintained for AGM, Board Meeting, financial statement etc and lot of transactions has been taking place in cash only. Therefore, he cannot escape his responsibility for not running the company as per requirements of law.

41. The annual returns filed by the appellant subsequently after they had been in control has been rejected in the impugned order. The consequence is that there is no annual return/financial statements since inception. This

compliance needs to be ensured within three months from the date of this order. In spite of present orders, ROC will be free to take any steps punitive or otherwise under the Companies Act, 2013 for non-filing of statutory returns/documents against the company and directors.

42. We also note that the various litigations, criminal cases filed against directors of the company.

43. In view of the foregoing discussions and observations we find no merit to interfere in the impugned order. The appeal is accordingly dismissed. No order as to costs.

(Justice Jarat Kumar Jain)
Member (Judicial)

(Mr. Balvinder Singh)
Member (Technical)

(Dr. Ashok Kumar Mishra)
Member (Technical)

New Delhi
Bm