

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) No. 02 of 2020

IN THE MATTER OF:

Mackintosh Burn Ltd.

...Appellant

Versus

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

...Respondents

Present:

For Appellant :

**Mr. Sumesh Dhawan, Mr. Indranil Ghosh, Mr. Palzer
Moktan, Ms. Arushi Arora and Mr. Akash Yadav,
Advocates**

For Respondents :

**Mr. Abhijit Sinha, Mr. Vikrant Pachrard, Mr. Iram
Hassan and Mr. Nitin Kumar Chahar, Advocates**

O R D E R

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.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansilal Bhat]
Member (Judicial)

/ns/sk/