

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**NEW DELHI**

**Company Appeal (AT) No. 16 of 2019**

**IN THE MATTER OF:**

**Wendt (India) Limited**

**...Appellant**

**Versus**

**Carborundum Universal Limited & Ors.**

**...Respondents**

**Present:**

**For Appellant :**           **Mr. Sulabh Rewari and Ms. Arunima Kedia,**  
**Advocates**

**For 1<sup>st</sup> Respondent:**   **Ms. Roopali Singh and Ms. Sayobani Basu,**  
**Advocates**

**O R D E R**

**14.01.2019**           The ‘Carborundum Universal Limited’ (petitioner) filed an application under Section 397 and 398 read with Section 402 etc. of the Companies Act, 1956 impleading Wendt (India) Ltd. & others before the erstwhile Company Law Board, Chennai Bench. The Company Law Board passed an interim order on 18<sup>th</sup> January, 2011. Thereafter no petition for modification of the order dated 18<sup>th</sup> January, 2011 was filed. Subsequently to the company petition was transferred before the National Company Law Tribunal, Bengaluru Bench, wherein after about 7 years, M/s. Wendt (India) Limited (Appellant herein – respondent before the Tribunal) filed an Interlocutory Application No. 309/2018, *inter-alia*, seeking to permit the applicant company to carry out the process of ‘postal ballot’ for the resolutions specified in the attached draft notice to take all steps necessary in furtherance thereof and for granting consequential

directions and reliefs. The Tribunal taking into consideration the interim order dated 18<sup>th</sup> January, 2011 wherein direction was issued that the shareholding pattern and composition of Board of Directors of 1<sup>st</sup> Respondent company should not be altered, rejected the application.

Learned counsel appearing on behalf of the appellant submits that the order dated 18<sup>th</sup> January, 2011 does not relate to an appointment of the Directors. He referred to the said order. According to him it was not a blanket order and all the issues in respect of the holding pattern restraining the Respondent Nos. 2 to 9 from altering the composition of the Board of Directors were kept open.

Ms. Roopali Singh, advocate appearing on behalf of the 1<sup>st</sup> Respondent supported the stand taken by the appellant. However, we are not deliberating on the issue as we find that the case is pending since 2011. As per Section 422 of the Companies Act, 2013 the Tribunal is required to dispose of the petition expeditiously and every endeavour is required to be made by the Tribunal for disposal within three months. However, we find that for one or other reason, the main matter is pending and one or other Interlocutory Applications are filed by the parties. In the circumstances, while we do not interfere with the impugned order and direct the parties to appear before the Tribunal with request to take up the matter for hearing preferably on the next date. The Tribunal will hear the main petition without granting unnecessary adjournments to the parties. The parties should not be allowed to file unnecessary Interlocutory Applications to delay the disposal of the case.

We make it clear that the Tribunal will not rely on the impugned order dated 9<sup>th</sup> October, 2018 while deciding the main case. It should be decided on the merit.

The appeal stands disposed of with the aforesaid observations and directions. No cost.

[Justice S.J. Mukhopadhaya]  
Chairperson

[ Justice Bansi Lal Bhat ]  
Member (Judicial)

/ns/sk/