

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) No. 284 of 2017

IN THE MATTER OF:

**Yashdeep Trexim Pvt. Ltd.
Pekon Building, 4th Floor,
Block GP, Kolkata 700091**

...Appellant

Vs

**1. Rainy park Suppliers Pvt. Ltd.
89, Netaji Subhas Road,
Kolkata-700027**

....Respondents

**2. Mooldhan Advisory Systems Pvt. Ltd.
14/2 Burdwan Road,
Kolkata-700027**

**3. Acme Consultants Pvt. Ltd.
14/2 Burdwan Road,
Kolkata-700027**

**4. Namokar Vinimay Pvt. Ltd.
14/2 Burdwan Road,
Kolkata-700027**

**5. Jai JaiDealcom Pvt. Ltd.
13, Noormal Lohia Lane,
Kolkata-700007**

**6. Toshniwal Plywood Pvt. Ltd.
13, Noormal Lohia Lane, Kolkata-700007**

**7. Watermark Systems (India) Pvt. Ltd.
110, Makers Chamber V, Nariman Point
Mumbai 400021**

**8. Libra Retailers Pvt. Ltd.
24(2) Harrington Mansion,
8, Ho Chi Min Sarani, 1st Floor,
Kolkata-700071**

**9. Govind Sarada
21A, Shakespeare Sarani,
2nd Floor Kolkata 700017**

**Also at
14/2, Burdwan Road,
Kolkata-700027**

**10. Amit Kumar Sarda
21A, Shakespeare Sarani,
2nd Floor Kolkata 700017**

**Also at
14/2, Burdwan Road,
Kolkata-700027**

**11. Shri Prakash Toshniwal
89, Netaji Subhas Road,
Kolkata 700001**

**12. Rahul Toshniwal
13, Noormal Lohia Lane,
Kolkata 700007**

**13. Lalit Toshiwal
13, Noormal Lohia Lane,
Kolkata 700007**

**14. Shyam Sunder Vyas
1206, Station Road, Napasar,
Bikaner, Rajasthan 334201**

**15. Shobhanand Jha
284, Maharaja Nandkumar Road
Kolkata 700035**

**16. Sashikant Jha
70, Golf Link, New Delhi 110003**

**17. Juggilal Kamlat Jute Mills Company Limited
84/89, Zarib Chauki Kalpi Road,
Kanpur 208012**

**18. Neeta Sarda
187, Rabindra Sarani, 1st Floor, Room No. 47,
Kolkatta-700007**

**19. Sudhir Kumar Singh
Dhobi Patti Lane, Kishangunj-855108**

Present:

For Appellant:

Mr. Amit S. Chadha. Sr. Advocate with Mr. Atanu Mukherjee, Ms. Srishti Govit, Mr. Sahil Mongia and Mr. Sujit Kumar Keshri, Advocates.

For Respondent:

Ms. Purti Marwaha, Advocate for Respondent No. 17.

ORDER

24.11.2017: Heard counsel for appellant. Perused impugned order dated 06.07.2017 passed in I.A. 223/17 in C.P 942/2012 by National Company Law Tribunal Kolkata Bench ('NCLT' in short). It appears that in the company petition which was before the NCLT when it had earlier come up before Company Law Board interim order was passed on 26th November, 2012 to maintain status quo with reference to the shareholding as well as fixed assets and the composition of board of directors of respondent no. 1 company. However, subsequently on the motion of Respondent No. 17 the ad interim order dated 26th November, 2012 was amended to the extent of withdrawing of interim order with regard to the fixed assets on 15th January, 2013. Petitioner had given no objection while the Order was being passed on 15th January, 2013.

It appears that due to subsequent developments, the appellant filed I.A No. 223 of 2017 seeking restoration of the earlier order of Company Law Board which in substance was seeking status quo on the fixed assets also. The application has been rejected vide impugned order by the learned NCLT on the

basis that once having agreed to the modification, the appellant cannot be permitted to backtrack and is estopped.

The learned counsel for the appellant submits that the application which was now moved was with reference to the subsequent events which should have been taken note of and the impugned order was wrong.

However, when the prayers of the concern application are pursued (Pg. 263 of the PaperBook), they read as under:

“In the circumstances, your petitioner most humbly pray that this Hon’ble National Company Law Tribunal be pleased to pass the following orders:

a. The order dated January 15, 2013 passed in C.P. No.942 of 2012

(Yashdeep Trexim Private Limited V Rainey Park Suppliers Limited & Ors.) be recalled and/or set aside;

b. The order dated November 26, 2012 is restored to its original with immediate effect;

c. Ad-interim order in terms of prayers above;

d. Such further or other order or orders be passed and/ or direction or directions be given as to this Hon’ble tribunal may deem fit and proper;

And for this act of kindness, your petitioner as in duty bound, shall ever pray.”

In view of these prayers, the impugned order cannot be faulted with. What was sought was restoration of earlier order of C.L.B modification of which had been acceded to. We do not find any reason to interfere in the impugned order. However the learned counsel for the appellant submits that the appellant may be given opportunity to file fresh I.A seeking interim relief in the pending Company Petition on the basis of the subsequent events. The appellant may file such I.A. if so advised and the learned NCLT will decide the same on its own merits uninfluenced by the earlier above impugned order.

Looking to the fact that the Company Petition is pending since 2012, keeping in view provisions of the Section 422 of the Companies Act, 2013, we expect and hope that the NCLT will make efforts to dispose off the main Company Petition itself on its merits at the earliest.

(Justice A.I.S. Cheema)
Member (Judicial)

(Justice Bansi Lal Bhat)
Member (Judicial)

(Balvinder Singh)
Member (Technical)

sh/gc