

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) No. 149 of 2019

IN THE MATTER OF:

Kirloskar Brothers Ltd. & Anr.

.....Appellant

Vs.

Kirloskar Industries Ltd. & Ors.

.....Respondents

Present :

For Appellant: Mr. Gopal Mukharjee, Senior Advocate with Mr. Shikhil Suri, Mr. Shiv Kumar Suri, Mrs. Manik Joshi, Ms. Shilpa Saini, Advocates

For Respondents: Attendance not marked

O R D E R

03.07.2019 - The Respondent '*Kirloskar Industries Ltd. & Anr.*' (Petitioner) filed an application u/s 241 and 242 of the Companies Act, 2013 alleging oppression and mis-management against '*Kirloskar Brothers Ltd. & Anr.*' (Appellant herein). In the said petition '*Kirloskar Industries Ltd. & Anr.*' (Petitioner before Tribunal) interalia alleged that certain acts of the Respondent (Appellant herein) are in violation of the provisions of '**Securities and Exchange Board of India Act**' (SEBI Act).

2. '*Kirloskar Brothers Ltd. & Anr.*' – Respondent (Appellant herein) filed an application before the Tribunal questioning maintainability of the application u/s 241 and 242 on the ground interalia that Tribunal has no jurisdiction to decide whether any act of the Company or Member is in violation of the

...contd.

Provisions of the SEBI Act which can be decided by the SEBI and if so decided, the appeal can be preferred before the **Security Appellate Tribunal**.

3. The Tribunal, Mumbai Bench on hearing the parties, rejected the application and decided to hear the application u/s 241 and 242 on merit giving rise to the present appeal.

4. Learned counsel appearing on behalf of the Appellant has taken similar plea that the Tribunal cannot decide whether any act is in violation of provisions of '**Securities and Exchange Board of India Act**' (SEBI Act). It can only be decided by the SEBI and thereafter the **Security Appellate Tribunal**.

5. However, we are not inclined to accept such submission as the Tribunal has jurisdiction to decide as to whether any act of a member or group of members of the Company is prejudicial or oppressive to the interest of any member or members or prejudicial to the interest or oppressive to the company. During such decision it can notice as to whether any of the provisions of the SEBI Act has been violated by any member or members or the Company which has caused prejudice to or oppressive to a member or members or the Company though it has no jurisdiction to pass any penal order in terms of the '**Securities and Exchange Board of India Act**' (SEBI Act).

6. As the issue is required to be determined by the Tribunal at the time of hearing the application u/s 241 and 242, we are not inclined to interfere with the impugned order.

7. However, we make it clear that we have not expressed any opinion on the merit of application which is required to be decided by the Tribunal after hearing the parties. Therefore, all questions as raised by the parties, including the question raised in Company Application No. 259 of 2017 is left open.

The appeal stands disposed of with aforesaid observations. No costs.

[Justice S. J. Mukhopadhaya]
Chairperson

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

[Kanthi Narahari]
Member (Technical)

ss/sk

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