

NATIONAL COMPANY LAW APPELLATE
TRIBUNAL, NEW DELHI

Company Appeals (AT) No.123 of 2017

IN THE MATTER OF:

M/s Nagesh Hosiery Exports Pvt Ltd & Ors ...Appellants

Vs

Nagesh Kumar & Ors.

...Respondents

Present: None for appellants. Mrs Renu Mehra in person.

ORDER

20.04.2017- This is a defective and incomplete appeal preferred by MIs Nagesh Hosiery Exports Pvt Ltd & Ors and one Mr. Ravinder Kumar Mehra. It was filed on 3' March, 2017 with defects. Though more than six weeks had passed, defects were not removed.

In this appeal, Vakalatnama, affidavit, copy of the impugned order have not been filed and no court fee has not been deposited. Therefore, the appeal was not to be registered.

However, it has been listed in view of a letter dated 18th April, 2017 received from the National Company Law Tribunal, New Delhi (hereinafter referred to as Tribunal) wherein a copy of order dated 21st March, 2017 has been enclosed, which reads as follows:-

"Learned counsel for the petitioner and the counsel for Respondent No.2 are present. Learned Counsel for the Petitioner/appellant represents that an application has been filed for execution of the order dated 20.1.2017 as well as for contempt committed of the said order of this Tribunal. Counsel for Respondent No.2 represents that an appeal has been filed against

the order dated 20.1.2017. Since Judicial proprietary demands that when the Hon 'ble NCLAT is seized fo the appeal it will not be appropriate for this Tribunal to proceed with matter. Further in view of Contempt Jurisdiction having been also involved in relation to the order passed on 20.01.2017 by the Hon 'ble Member Mrs ma Malhotra, circumstances necessitate that the same be placed before the Hon 'ble President for necessary directions to place the matter appropriately for consideration."

Letter dated ^{18th} April, 2017, received from the Tribunal is quoted as below:-

"I am directed to enclose herewith the copy of the order dated 21.3.2017 in the matter of M/s Nagesh Hosiery Exports Pvt Ltd & Ors in CP No. 97(ND) of 2006 and to request to intimate whether any appeal is pending in the subject matter before the Hon 'ble NCLA T Kindly accord priority."

In was in this background, the Registry registered the appeal for orders.

From the record, we find that the Company Petition was filed in the year 2006 by Respondents Mr Nagesh Kumar and Mrs Renu Mehra. The Appellants are Respondents therein. For one or other reason, the Appellants are buying time and matter is pending for eleven years.

Under Section 422 of the Companies Act, 2013, the petitions were required to be disposed of within three months. However, more than ten months have passed after constitution of the Tribunal but it has not been disposed of in view of time taken by the Appellants that too in the manner as noticed above. We find that just to delay the Company Petition, the Appellants have played a dubious role in preferring the defective appeal without enclosing Vakalatnama, without enclosing the copy of the impugned order and without affidavit and asking for time from the Tribunal on the ground that they have preferred the appeal and same is pending. In the circumstances, we direct the

Tribunal to dispose of the Company Petition preferably within one month without granting unnecessary adjournment to the parties. The Appellants who are Respondents before the Tribunal should not be granted time on any ground.

It would be also open to the Tribunal to decide as to what action is to be taken against the Respondents. The appeal is dismissed with aforesaid observation.

Let a copy of this order be forwarded to National Company Law Tribunal, New Delhi.

Sd!-
(Justice S.J. Mukhopadhaya)
Chairperson

Sd!-
(Mr. Balvinder Singh)
Member (Technical)