

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) No. 401 of 2017
Company Appeal (AT) No. 404 of 2017
Company Appeal (AT) No. 405 of 2017
Company Appeal (AT) No. 406 of 2017
Company Appeal (AT) No. 407 of 2017
Company Appeal (AT) No. 408 of 2017

IN THE MATTER OF:

Northern Projects Ltd. & Ors.

...Appellants

Versus

**Blue Coast Hotels & Resorts Ltd.
& Others**

...Respondents

Present:

For Appellants :

Shri Abhishek Puri, Advocate

For 1st Respondent :

**Shri Rahul Srivastava and Ms. Sanjana Dua,
Advocates**

For Respondent :

**Shri Nesar Ahmad, PCS and Shri Ahsan
Ahmad, Advocate**

O R D E R

20.12.2017 These appeals arise out of common order dated 19th September, 2017 passed by the National Company Law Tribunal, Mumbai Bench, Mumbai in T.C.P. Nos. 9 to 14/111A/NCLT/MB/MAH/2011 whereby and whereunder the Tribunal refused to modify the earlier order dated 11th August, 2011 passed by the erstwhile Company Law Board.

2. Earlier on 6th December, 2017 when the matter was taken up, the learned counsel for the appellants brought to our notice the impugned order dated 19th September, 2017, which reads as follows:

“The Respondent Nos. 3 to 5 have filed an application seeking the reliefs as follows:

- 1. Pass an order directing for the rectification of the entries in the member’s register of the Respondent Company with respect to the shares held by Respondents 2 to 5 of the Respondent No. 1 Company and thus rectify the records by deleting the names of Respondent No. 2 to 5 as beneficial owners of the shares they hold in their name with respect to the shares of the Petitioner Company and incorporating the names of the Petitioner Companies in their place.*
- 2. To direct the depository to comply with the directions issued by this Hon’ble*
- 3. Pass such other order as this Hon’ble Board may deem fit and propr.*

Now the case of these Respondent Nos.3 to 5 is that since R1 has proposed to extend a period of redemption of preference shares, the Respondents herein will not get right to vote the proposal to be passed in the General Meeting by way of postal ballot to pass the resolution for such extension in violation in the shareholders right as prescribed under Section 48 of the Companies Act, 2013 because erstwhile CLB on 11.08.2011 passed an order against R2 to R5 not to exercise the voting rights in respect of the subject shares impugned (i.e. equity shares held by R2 to R5) until further orders.”

3. It is submitted that the impugned order has been passed on an Interlocutory Application / Company Application but the Tribunal has quoted the relief as has been sought for in the main Company Petition. It is further submitted that no reference has been made of the Interlocutory Application / Company Application in which the impugned order has been passed.

4. Learned counsel appearing for the respondents accepts that there are mistake in the impugned order dated 19th September, 2017 wherein wrong relief has been quoted which were not sought for in the Interlocutory Application, but in the main Company Petition.

5. From bare perusal of the impugned order, we also find that there is ambiguity as to in which application the impugned order has been passed i.e. whether in the main Company Petition or in an Interlocutory Application / Company Application. For the reasons aforesaid, we set aside the order dated 19th September, 2017 and remit the case to the Tribunal to decide the Company Petition(s) along with all Interlocutory Applications / Company Applications together on merit after notice and hearing the parties.

6. It is expected that the Tribunal will decide the main Company Petition(s) along with pending Interlocutory Application(s) by a common order preferably within two months. The appeal is allowed with the aforesaid observations. No cost.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

/ns/gc