

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) No. 152 of 2017

IN THE MATTER OF:

Asomi Industries Pvt. Ltd.

...Appellant

Vs

Sashi Kumar Tea Co. Pvt. Ltd. & Ors.

...Respondents

Present: For Appellant:- Mr. R.Jawahar Lal, Mr. Shyamal Anand and Ms. Naina Duggal, Advocates.

For Respondents:-

ORDER

30.05.2017- The Appellant has challenged the order dated 3rd March, 2017 passed by National Company Law Tribunal (hereinafter referred to as "Tribunal"), Guwahati Bench, Guwahati in T.P.No. 19/397/398/GB/2016 in C.P.No. 182 of 2014, whereby and whereunder the Tribunal on hearing the Ld. Counsels for the parties and perusal of the records held the removal of Respondent Nos.5 & 6 (Petitioner Nos.1 & 2 before the Tribunal) were illegal under the resolution adopted on 19th September, 2014, which itself is an act of mismanagement. While holding so the Tribunal set aside the resolution dated 19th September, 2014 and restored the Respondent Nos. 5 & 6 (Petitioner Nos. 1 & 2 before the Tribunal) as Directors of the 1st Respondent Company and also held the subsequent Board Meetings and action(s), if any, taken there-under, save and except, the allotment of equity shares to the Respondent Nos. 4 & 5 made on 26th September 2014, in pursuance to the resolution dated 13th September, 2014 as void and illegal and quashed the same.

Ld. Counsel appearing on behalf of the Appellant while contended that the Appellant has no objection with regard to the restoration of Respondent Nos. 5 & 6 (Petitioner Nos.1 & 2 before the Tribunal) as Directors, contended that the Tribunal ought not have set aside the subsequent Board Meetings and its actions. According to the Ld. Counsel for the Appellant, in the subsequent Board Meetings various decisions were taken in relation to payment of salary and wages to the workmen, statutory dues, dues which were payable to the concerned parties and fixed deposits of certain amount, but in view of the impugned order they will stand annulled. According to him, it will not only affect the employees and workmen in some cases statutory authorities may be affected.

In spite of notice and its service, the respondents have not appeared to oppose the appeal.

Having heard the Ld. Counsel for the Appellant and on perusal of the impugned order, we find no illegality in declaring the subsequent Board Meetings illegal the subsequent Board Meetings were held in absence of the Respondent Nos.5 & 6 (Petitioner Nos.1 & 2) who have been restored as directors. However, taking into consideration the fact that various actions were taken pursuant to the Boards' Meeting held subsequent to 19th September, 2014 and before restoration of Respondent Nos.5 & 6 as directors, including the wages paid to the employees, workmen and statutory dues were paid and fixed deposits have been made by the company, we are of the view that in the interest

of the company the Tribunal should have saved the consequences effect of holding the subsequent Boards' meetings. In the circumstances, we modify the part of the impugned order dated 3rd March, 2017 passed by Tribunal in CP No. 182/2014 by saving all the actions taken by the company pursuant to Board Meetings held after 19th September, 2014 till the date of the impugned judgment, which relates to employees-workmen, payment of wages, payment of dues, fixed deposits etc.

The impugned order dated 3rd March, 2017 passed by Tribunal is modified to the extent above. The appeal stands disposed of with aforesaid observations and directions. However, in the facts and circumstances of the case, there shall be no order as to cost.

(Justice S.J. Mukhopadhaya)
Chairperson

(Mr. Balvinder Singh)
Member(Technical)

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