

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) No. 10 of 2017

IN THE MATTER OF:

M/s. Eicher Motors Limited ... **Appellant**

Vs.

Adesh Kaur & Ors ... **Respondents**

Present: For Appellants:- Mr Rajesh Ranjan, Mr Neeraj Matta and Mr Joel, Advocates

For Respondent No. 1:- Mr S.M. Sundaram, Advocate.

ORDER

24.01.2017 — Issue notice. Mr S.M. Sundaram, Advocate, accepts notice on behalf of First Respondent. No notice need be issued to her. Rest of the respondents are Proforma Respondents and in view of the order we intend to pass, it is not necessary to issue notice to them.

2. We have heard the Ld. Counsel for the Appellant and Ld. Counsel for the Respondent and perused record.

The National Company Law Tribunal, (hereinafter referred to as Tribunal) New Delhi by impugned order dated 6th December, 2016, passed in C.P No. 8/59/2015, has made certain passing observation against the Appellant while granting 6 weeks' time to Counsel for the Respondents to ensure certain steps to be taken as per the direction.

3. From the impugned order we find that the Company petition is pending for adjudication before the Tribunal. There is nothing on record to suggest that separate C.A had been filed by any of the Respondents to make certain interim arrangement or to take any action by Securities & Exchange Board of India (hereinafter referred to as SEBI). If the SEBI has not taken any action against one or other party which it was required to take even during the pendency of the Company petition, it is well within the jurisdiction of the Tribunal to direct the SEBI to take steps in accordance with law. If any step is required to be taken by SEBI under any law or guideline against one or other party, it may do so following all the procedure.

4. We accept the submission made on behalf of the Appellant that the adverse observation made by the Tribunal will affect the right of the Appellant and the observation are not based on record. The Tribunal has not relied upon on any record while made adverse observation against the Appellant.

5. However, as we find that the Tribunal has not passed any specific direction or made any interim arrangement and only the Respondents have been granted 6 weeks' time to ensure definite step as required to be taken. In this background instead of interfering with the impugned order, we pass the following order.

6. The Tribunal will ensure that Company Petition is heard on merit and decided on an early date uninfluenced by the observation made in the impugned order. It will keep in mind that the matter is pending since 2015. SEBI may take step, if so required under the law against one or other party but it must follow the principles of natural justice and other statutory requirements under rules and guidelines issued from time to time. The Tribunal cannot await the decision of SEBI though after final hearing, the Tribunal may direct one or other Respondents to perform its duties.

7. With aforesaid observation, we dispose of the appeal. The question of law raised in this appeal is left open for determination in appropriate case. The appeal stands disposed of with aforesaid observations and directions. However, there shall be no order as to cost.

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

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