

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) No. 76 of 2018

IN THE MATTER OF:

Indoworth India Ltd.

...Appellant

Versus

Ashok Mittal & anr.

...Respondents

Present:

For Appellant :

**Mr. Abhishek Sharma, Mr. Narendera M. Sharma,
and Mr. Aditya Singh, Advocates**

For Respondents:

**Mr. Jayant Mehta, Mr. Saurabh Kalia and
Mr. Rahul Ahuja, Advocates**

O R D E R

14.05.2018 This appeal has been preferred against order dated 15th January, 2018 passed by the National Company law Tribunal, Kolkata (hereinafter referred to as the 'Tribunal') whereby and whereunder the petition for impleadment filed by the Respondent in Company Petition No. 46 of 2016 has been allowed.

2. The main plea taken by the appellant is that the appellant is not a 'necessary party' and the application for impleadment was filed in June, 2006, but no order was passed therein till 2016. However, such ground cannot be accepted, as a party cannot suffer due to inaction on the part of the erstwhile Company Law Board.

3. The National Company Law Tribunal was constituted on 1st June, 2016 and subsequently it was brought to its notice that an application for impleadment is pending since long. In this background the Tribunal after hearing the parties passed the impugned order.

4. It is submitted that on wrong factual pleading made by the respondent/petitioner the Tribunal impleaded the appellant as party respondent, but in absence of any such pleading based on record, such submission cannot be accepted.

5. Having heard learned counsel for the parties and taking into consideration the fact that the case is pending since 2006, and there was no laches on the part of the respondents/petitioner who filed the petition for impleadment filed on time, we are not inclined to decide whether the appellant is a 'proper party' or 'proforma party'. Further, as we find that allegation of transfer of shares has been made which can be decided only at the time of final hearing, we are not inclined to give any finding on such allegation at this stage.

6. We find no merit in the appeal. It is accordingly dismissed. However, in the facts and circumstances of the case, there shall be no order as to costs.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

/ns/uk