

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
SINGLE PRINCIPAL BENCH

ITEM No. 22
TA (Co. Act.)- 06(PB)/2024

IN THE MATTER OF:

Diven Dembla Petitioner/Applicant
Vs.
Precision Rubber Industries Private Limited Respondent

Order under Rule 16(d) of NCLT, 2016

Order delivered on 05.04.2024

CORAM:

JUSTICE RAMALINGAM SUDHAKAR
HON'BLE PRESIDENT

(HEARING THROUGH PHYSICAL MODE & VC)

PRESENT:

For the Applicant : Adv. Gaurav Mitra, Adv. Sashwat Patnaik, Adv. Aditya Narayan Panda, Adv. Ishan Roy Chowdhary
For the Respondent : Sr. Adv. Soli Cooper, Adv. Tejas Karia, Adv. Varun Pathak, Adv. Shyamal Anand, Adv. Thejesh Rajendran, Adv. Yohann Copper for R-6
Adv. Sanjeev Bindal for R-9 and 11

ORDER

1. Mr. Gaurav Mitra, Ld. Counsel for the Applicant appears physically. Mr. Soli Cooper, Ld. Sr. Counsel for the R-6 appears through VC.
2. Prayer in this application reads as follows:
 - (a) *That the Hon'ble President be pleased to exercise his powers under Rule 16(d) of the National Company Law Tribunal Rules, 2016 read with Section 419(3) of the Companies Act, 2013 and be pleased to transfer Company Petition No. 206 of 2022 from Hon'ble National Company Law Tribunal, Mumbai Bench, Court III to Hon'ble National Company Law Tribunal, Mumbai Bench, Court I along with all respective pending applications in both matters;*
 - (b) *In the alternative to (a), That the Hon'ble President be pleased to exercise his powers under Rule 16(d) of the National Company Law Tribunal Rules, 2016 read with Section 419(3) of the Companies Act, 2013 and be pleased to transfer Company Petition No. 132 of 2023 from Hon'ble National Company Law Tribunal, Mumbai Bench, Court I to Hon'ble*

National Company Law Tribunal, Mumbai Bench, Court III along with all respective R Y pending applications in both matters;

- (c) Tag Company Petition (MB) No. 132 of 2023 along with Company Petition No. 206 of 2022 along with all respective pending applications in both matters;*
- (d) The Hon'ble President be pleased to exercise his powers under Rule 32 of the Rules of National Company Law Tribunal to grant ad-interim ex-parte stay on further hearing in Company Petition No. 132 of 2023 pending before Court I, National Company Law Tribunal, Mumbai till the disposal of present transfer application;*
- (e) Pass any such other and further order(s) as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present case.*

- 3.** Mr. Gaurav Mitra, Ld. Counsel for the Applicant restricts the prayer to Prayer-(a).
- 4.** Company Petition No. 206/2022 is pending before Court-III, Mumbai Bench, NCLT which is filed by Mr. Diven Ghansham Dembla. The present Transfer Application is filed against 26 Respondents.
- 5.** Mr. Gaurav Mitra, Ld. Counsel, on instructions of Ld. Counsel Mr. Sashwat Patnaik, has stated across the Bar that he has served all the Respondents and filed the proof service through affidavit dated 01.04.2024.
- 6.** In this, Mr. Soli Cooper, Ld. Sr. Counsel appears through VC for R-6 namely Mr. Niraj Iswar Thakkar.
- 7.** The Petition which is sought to be transferred i.e. Company Petition No. 206/2022 is being heard by Court-III, Mumbai Bench, NCLT from time to time.
- 8.** It is also to be noted that Company Petition No. 132/2023 has been filed by Mr. Niraj Iswar Thakkar against 07 Respondents, in which Mr. Diven Ghansham Dembla is R-2 and it is pending before Court-I, Mumbai Bench, NCLT.
- 9.** Here again, the present Transfer Applicant states that all the Respondents have been served and proof of service through affidavit has been filed. Mr. Niraj Iswar Thakkar is the Petitioner in Company

Petition No. 132/2023 is represented by Mr. Soli Cooper, Ld. Sr. Counsel.

- 10.** Since other Respondents have not chosen to respond to this Transfer Application, the present application is heard on the submissions made by Mr. Gaurav Mitra, Ld. Counsel for the Transfer Applicant and Mr. Soli Cooper, Ld. Sr. Counsel for R-6.
- 11.** In respect of the Respondent group company, two key players are Mr. Diven Ghansham Dembla and Mr. Niraj Iswar Thakkar. It is not in dispute that the parties are interlinked to each other. However, Company Petition No. 206/2022 was filed earlier and is being heard by Court-III, Mumbai Bench, NCLT while Company Petition No. 132/2023 was filed later and is being heard by Court-I, Mumbai Bench, NCLT.
- 12.** Mr. Soli Cooper, Ld. Sr. Counsel for R-6 states that Company Petition No.132/2023 before Court-I, Mumbai Bench has had several hearings on merits of the case and it is going on without any restraint. Whereas, there is a delay in Company Petition No.206/2022 before Court-III, Mumbai Bench. He, therefore, does not want transfer of the case from Court-I to Court-III; however, if the case of Company Petition No. 206/2022 before Court-III, Mumbai Bench, NCLT is transferred to Court-I, Mumbai Bench, NCLT, it should be heard separately so that there is no derailment of proceedings in respect of Company Petition No.132/2023, which is already being heard by Court-I.
- 13.** On this objection raised by the Ld. Sr. Counsel for R-6, Mr. Gaurav Mitra, Ld. Counsel for the Applicant has no serious objection and he states that the matters can be listed before one Bench for effective adjudication keeping in mind the interest of the parties.
- 14.** The parties are interlinked with each other as group of companies and further the two Company Petitions have some connection with each other, in the interest of justice, it will be appropriate that one Bench decides the matters.
- 15.** In any event, taking note of the objections raised by Mr. Soli Cooper, Ld. Sr. Counsel that the Company Petition No.132/2023 already heard by Court-I, Mumbai Bench, NCLT should not be delayed on account of

the transfer of other cases, I am inclined to accept his objection and to order the transfer of Company Petition No. 206/2022 from Court-III, Mumbai Bench, NCLT to Court-I, Mumbai Bench, NCLT to be heard separately so that there is no difficulty faced by the parties in adjudication of the matter. However, it is open to the Bench to decide how and when the matter should be heard in the interest of justice.

16. It is made clear that Company Petition No. 132/2023, which is already by Court-I, Mumbai Bench, NCLT can proceed without any restraint.

17. Accordingly, **TA (Co. Act.)- 06(PB)/2024** stands **allowed**.

Sd/-
(RAMALINGAM SUDHAKAR)
PRESIDENT

Shubham Pandya- 05.04.2024