

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH, COURT-II
Company Petition No. 178 of 2024**

**An application for section 96 and 97(1) of the Companies Act, 2013
read with Rule 74 of the National Company Law Tribunal Rules, 2016
and other applicable rules;**

In the matter of:

Mr. Naresh Kumar Juneja (holding 325100 shares) residing at 13 Raja Santosh Road, Alipore Kolkata 700027, being shareholder of M/s FENASIA OVERSEAS PRIVATE LIMITED, a company incorporated under the Companies Act, 1956 and having its Registered Office at 8B Middleton Street, Park Street, Middleton Row, Kolkata -700071, within the aforesaid jurisdiction.

...Petitioner

-And-

In the matter of:

FENASIA OVERSEAS PRIVATE LIMITED, a company incorporated under the Companies Act, 1956 and having its Registered Office at 8B Middleton Street, Park Street, Middleton Row, Kolkata -700071 and having CIN: U24116WB1999PTC090154.

....Respondent

Date of pronouncement of the Order: 11/7/2024

Coram:

Smt Bidisha Banerjee: Member (Judicial)

Shri D. Arvind, Hon'ble Member (Technical)

Appearances:

For the Petitioner:

1. Ms. Sneha Khaitan, PCS

For the Respondent:

1. Adv Urmila Chakraborty
2. Ms. Urvi Sanghvi, PCS

ORDER

Per: Bidisha Banerjee (Judicial)

1. This Court convened via hybrid conferencing.
2. The present Company Petition has been filed under section 96 and 97(1) of the Companies Act, 2013 read with rule 74 of the NCLT Rules, 2016 by Naresh Kumar Juneja, (holding 325100 equity shares), representing 50 % of the total issued, subscribed and paid- up share capital of the Respondent Company praying for the following reliefs:

a) Direction upon the Respondent No.1 Company to convene, hold and conduct the Annual General Meeting from the Financial Year ended 31.03.2011 onwards till the financial year ended 31.03.2023 (i.e., from 2010-2011 to 2022-2023) under the provision of sub-section (1) of section 97 of the Companies Act, 2013.

b) And give such ancillary or consequential directions as the learned Tribunal thinks Expedient.

Submissions of the Petitioner:

1. The Petitioner submits that the Respondent No. 1 i.e. FENASIA OVERSEAS PRIVATE LIMITED, is a Company incorporated on 27th August, 1999 under the Companies Act 1956 having its Registered

Office at 38B Middleton Street, Park Street, Middleton Row, Kolkata -700071.

2. Ld. Authorised Representative for the petitioner submits that the last Annual General Meeting of the Respondent Company was held for the financial year ended on 31st March 2010 as per master data.
3. The Petitioner submits that he approached the Company for holding of Annual General Meeting for the financial year ended 31.03.2011 onwards till the financial year ended 31.03.2023 (i.e., from 2010-2011 to 2022-2023).
4. The Petitioner also states that the Fire incident took place in the factory cum godown of the Company on 29.09.2006. After repeated requests and reminders the claim was finally settled after involvement of the National Consumer Disputes Redressal Commission, New Delhi vide Order dated 08.11.2023 and Hon'ble Supreme Court of India vide its order dated 27.02.2024 and now the Insurance Company is obligated to pay the claim amount at Rs. 7,86,11,587/- to the Respondent Company.
5. The Petitioner also states that the matter was under litigation and directors of company were continuously pursuing the legal case for recovery of Insurance claim which was ultimately settled by Hon. Supreme court in favour of plaintiff / Respondent company by its order dated 27.02.2024 as stated above and due to the said fact the company was struck off vide ROC Notice dated 05.09.2013 and thereafter revived by Order passed by this Hon'ble NCLT, Kolkata Bench on 05.06.2024 passed in C.P. No. CP/78(KB)2024 and the status of the Respondent Company is now "ACTIVE" in the Company master data on the MCA portal.

6. The respondent company could not get its accounts audited on time due to such unexpected, unusual and extraordinary circumstances as stated above hence the Annual General Meeting could not be held within stipulated time for the Financial Year ended 31.03.2011 onwards till the financial year ended 31.03.2023 (i.e., from 2010-2011 to 2022-2023) as required under section 96 of the Companies Act, 2013.
7. The Petitioner being the shareholder has the right to receive his amount of contribution to the Company as a member. The rights of the Shareholders to receive their contribution of money could only be established when the Company is well functioning and fully compliant. The Respondent Company is "ACTIVE" company as reflects from its Master Data of the Respondent.
8. Ld. Authorised Representative for the Respondent submits that the financials of the Company for the Financial Year ended 31.03.2011 onwards till the financial year ended 31.03.2023 (i.e., from 2010-2011 to 2022-2023) are now ready and they have no objection to hold AGM for the said Financial Years.
9. We have heard Authorized Representative appearing for the Petitioner and the Authorized Representative appearing for the Respondent, who submit that the accounts have now been got prepared and audited and as such the AGM can now be held.
10. Accordingly, we hereby, give the following directions in the exercise of the powers conferred on this tribunal under section 96 and 97(1) of the Companies Act, 2013 read with Rule 11 and Rule 74 of the National Company Law Tribunal Rules, 2016:

- (a) The Respondent company shall hold a General Meeting within 45 days from the date of this order, to finalise and approve the annual returns and financial statements for the Financial Years from 31.03.2011 onwards till the financial year ended 31.03.2023 (i.e., from 2010-2011 to 2022-2023) in accordance with the procedure prescribed in the provisions of Companies Act, 2013 and Rules made therein. This meeting shall be considered as an Annual General Meeting for the purposes of the Companies Act 2013.
- (b) The Respondent Company is directed to give 21 days' clear notice in advance, either in writing or through electronic mode in the manner prescribed every member of the Company, legal representative of any deceased member or the assignee of an insolvent member, the auditors of the Company and every director of the Company in accordance with section 101 of the Companies Act, 2013, informing therein the place, date, day and the hour of the meeting and shall contain a statement of the business to be transacted at such meeting.
- (c) Necessary health protocol and Govt. Advisory, if any, shall be scrupulously followed.
- (d) The Respondent Company is being granted the liberty to approach this Tribunal in case there is any difficulty in holding the Annual General Meeting as directed aforesaid.

11. The **C.P. No. 178/KB/2024** shall stand **disposed of** accordingly.

12. The Registry is directed to send copies of the Order forthwith to all the parties and their Counsel/Authorised Representative for information and for taking necessary steps.
13. Registry is also directed to send a copy of this Order to the **Registrar of Companies, West Bengal.**
14. Certified Copies of this order may be issued, if applied for, upon compliance of all requisite formalities.
15. File be consigned to records.

D. Arvind
Member (Technical)

Bidisha Banerjee
Member (Judicial)

Order Dated 18/7/2024

NKS(LRA)