

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

**ITEM No. 4**  
**123/241-242/PB/2018**

**IN THE MATTER OF:**

Aude Priya Donatelle Wacziarg EP engel & Anr.

.... Petitioners

Vs

Delhi Warehousing Pvt. Ltd & Ors.

.... Respondents

**Order under Section 241-242 of Companies Act, 2013**

**Order delivered on 04.07.2024**

**CORAM:**

**JUSTICE RAMALINGAM SUDHAKAR**

**HON'BLE PRESIDENT**

**SH. AVINASH K. SRIVASTAVA**

**HON'BLE MEMBER (TECHNICAL)**

**HEARING THROUGH HYBRID MODE (PHYSICAL & VC)**

**PRESENT:**

For the Petitioner : Sr. Adv. Mr. Ritin Rai, Adv. Abhishek Anand,  
Adv. Nidhi Mohan Parashar, Adv. Rohan  
Chawla, Adv. Karan Kohli  
Sr. Adv. Mr. P. Nagesh, Adv. Ashish Verma,  
Adv. Salonee Keshwani for the Applicant in  
CA-116/2024

For the Applicant : Sr. Adv. Mr. P. Nagesh, Adv. Ashish Verma,  
Adv. Salonee Keshwani

**ORDER**

**CA-116/2024**

1. This application has been filed by M/s Abro Technologies Private Limited. The prayer made in this application reads as follows:-

- a. *Hold that the order dated 13.04.2018 shall not come in the way of the respondent no. 2 and M/s Abro Technologies Pvt Ltd. from effectuating the Memorandum of Family Settlement dated 24.03.2024, executed by them which was taken on record by the Honourable Supreme Court of India vide order dated 10.04.2024;*
- b. *Pass such other or further order(s) or directions as this Hon'ble Tribunal may deem just and proper in the facts and circumstances of the case and in the interests of justice.*

In the main petition, two petitioners have invoked the jurisdiction of this Tribunal seeking relief under Section 241-242 of the

Companies Act. M/s Delhi Warehousing Pvt. Ltd. (R-1) and Aman Nath (R-2) are contesting parties along with others. Mr. Atul Nath, older brother of Mr. Aman Nath is also shareholder of 10,200 shares in Delhi Warehousing Pvt. Ltd. through M/s Abro Technologies. In another proceeding (CP- 41(ND)/2016) initiated by Mr. Atul Nath against M/s Delhi Warehousing Private Limited on the ground of oppression and mis-management, which after passing through various proceedings before this Tribunal and Hon'ble NCLAT, landed before the Hon'ble Supreme Court and in course of those proceedings vide order dated 30.11.2021 **(Annexure D at page 40 of this application)** Hon'ble Justice A.K. Sikri, retired Judge of Hon'ble Supreme Court was appointed as mediator. Further, direction was issued to the mediator vide order dated 23.01.2024 by the Hon'ble Supreme Court and the order reads as follows:-

*"Pursuant to the order dated 5th December, 2023, the learned Mediator Justice A. K. Sikri has forwarded the record to this Court by marking it as "strictly confidential". The reason is that the confidentiality is attached to the proceedings before the learned Mediator. However, with a view to resolve the issue, we have perused the broad terms of family settlement arrived between the parties in the meeting held on 25th April, 2023. In order to finalize the settlement which was recorded in the broad terms of family settlement, we have shown the said document to the parties. Shri Atul Nath who was personally present in the Court did not dispute that he has signed the same. Though on earlier date, he disputed the same. The learned counsel appearing for Mr. Amar Nath also stated that he has signed the same. The learned counsel appearing for these two parties agree that now what remains to be worked out is mutually agreed value, as mentioned in clause 2 (c) of the broad terms. Both of them agree that the settlement will be worked out in terms of what is recorded in the document dated 25th April, 2023.*

*The learned counsel appearing for the parties request the Court to send back the case to the learned Mediator for working out mutually agreed value in terms of clause 2 (c). We appreciate the role played by the learned Mediator.*

*We are aware that the learned Mediator has spent a lot of time in ensuring that the parties arrived at settlement.*

*We request the learned Mediator to mediate on the issue of mutually agreed value in terms of clause 2(c) of the broad terms of family settlement.*

*It will be appropriate if the parties execute the Memorandum of Settlement before the learned Mediator. The parties will apply to the learned Mediator for fixing a date for meeting.*

*The record of the mediation proceedings be re-sealed in the two envelopes and send back to the learned Mediator along with a copy of this order.*

*List for directions on 2nd April, 2024.”*

2. The mediation succeeded post the family settlement which happened on **24.03.2024** and the same was placed before the Hon'ble Supreme Court and recorded in its order dated **10.04.2024 (Annexure-F)** which is extracted below:-

*“The learned Mediator (Hon'ble Shri Justice A.K. Sikri, a retired Judge of this Court) has forwarded a copy of the Memorandum of Family Settlement dated 24th March, 2024. settlement agreement is taken on record. The copy of the settlement agreement is taken on record.*

*The learned counsel appearing for the respondent nos .1 and 2 has handed over two cheques to the learned counsel appearing for the appellant. The details of the two cheques are as under:*

*1. Cheque No. 494201 dated 9th April, 2024 drawn on Axis Bank Ltd. for Rs.25,00,000/- (Rupees Twenty-five Lakhs) in favour of Abro Technologies Private Limited; and*

*2. Cheque No. 494202 dated 9th April, 2024 drawn on Axis Bank Ltd. for Rs.75,00,000/- (Rupees Seventy-five Lakhs) in favour of Shri Atul Nath.*

*The learned counsel appearing for the appellant seeks permission to withdraw the Appeal in view of the Settlement Agreement dated 24th March, 2024.*

*Accordingly, the Civil Appeal is disposed of as withdrawn.*

*Our attention is invited to an order dated 13th April, 2018 passed by the National Company Law Tribunal (for short, 'the NCLT') in CP No.123/241-242/PB/2018. It will be open for the parties to the settlement agreement to file an appropriate application before the NCLT, New Delhi Principal Bench, for seeking appropriate relief/clarification/modification. If such an application is made, the NCLT shall decide the same in accordance with law.*

*We may record our appreciation for the role played by the learned Mediator by devoting such a long time to the process of mediation which resulted in the parties arriving at an amicable settlement.”*

3. In view of the liberty given by the Hon'ble Supreme Court to move to National Company Law Tribunal (NCLT) seeking appropriate

relief for clarification/modification as against the order dated **13.04.2018**, present application (CA- 116/2024) is filed. The relevant portion of the order dated 13.04.2018 reads as follows:-

*“It has been argued that petitioners jointly hold 49.44% percentage of shares as on today and petitioner no. 1 is also on the Board of Directors. Mr. K. Datta, learned Counsel for respondent nos. 1 and 2, after obtaining instructions states that the status quo with regard to the shareholding as well as the Board of Directors shall be maintained as it exists today. The aforesaid statement has also been made by the Counsel for the petitioner.”*

The relief sought for in the present application relates to transfer of 10,200 shares held by M/s Abro Technologies Pvt. Ltd. for which Mr. Atul Nath is the director-cum-shareholder. Based on the family arrangement and settlement recorded by the Hon'ble Supreme Court, these shares have to be transferred in favour of Mr. Aman Nath or his nominee. Certain payments have been made and recorded by the Hon'ble Supreme Court. The full impact of the settlement has not been recorded by the Hon'ble Supreme Court. However, on the basis of the directions issued by the Hon'ble Supreme Court to pursue the matter before this Tribunal, we have considered and find that in terms of the order of the Hon'ble Supreme Court, the transfer is sought to be effected in respect of 10,200 shares held by M/s Abro Technologies Pvt. Ltd. in M/s Delhi Warehousing Private Limited. The transfer could not be effected in view of our order dated **13.04.2018**, where parties have been directed to keep the *status quo*.

4. Mr. Nitin Rai, Ld. Sr. Counsel and Mr. Abhishek Anand, Ld. Counsel appearing for Petitioner in the main case stated that full terms of the settlement should be disclosed to them and the nature of transaction should be revealed. However, at this point of time, we do not think it necessary to go into that fact, because the Hon'ble Supreme Court has already taken on record the memorandum of settlement, the payments made and allowed the parties to withdraw the appeal with liberty to the concerned parties

to file appropriate Application before this Tribunal seeking modification of the order dated 13.04.2018.

5. Such being the case, since a settlement has been recorded by the Hon'ble Supreme Court in respect of 10,200 shares held by M/s Abro Technologies and that has been resolved in the family arrangement, we find justification in seeking transfer of the said shares in the name of Mr. Aman Nath or his nominee. In view of the order of the Hon'ble Supreme Court, the transfer of shares in terms of family settlement can be made and the order dated 13.04.2018 stands modified to that extent. The application stands ordered accordingly.
6. However, since the lis is pending, being adjudicated on merits on oppression and mis-management and various issues are being raised by both the parties, the rights of parties and this transfer will be subject to outcome of the main case on merits.

Accordingly, **CA 116/2024 is Allowed and disposed of in aforesaid terms.**

**CP 123/2018**

This CP is connected with CP 401/2017. Ld. Counsels for both the parties jointly sought a date for hearing of main matter. At request and by consent, list the matter on **29.08.2024 on top of the Board along with CP 401/2018 as Item no. 2.** Both the parties are directed to prepare a comprehensive chart, list of dates and events and brief notes before next date of hearing.

-Sd/-  
**(RAMALINGAM SUDHAKAR)**  
**PRESIDENT**

-Sd/-  
**(AVINASH K. SRIVASTAVA)**  
**MEMBER (TECHNICAL)**

04.07.2024  
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