

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**NEW DELHI**  
**COURT – VI, NEW DELHI**

**Item No. 704**  
**CA/213/2022 IN 879/59/ND/2019**

**In the matter of:**

**Universal Conveyor Beltings Limited,**

...Applicant

**Versus**

**Amrex Marketing Private Limited**

...Respondent

**Order under Rule 11, NCLT Rules, 2016.**

**Order delivered on 14.09.2023**

**CORAM:**

**SHRI. P.S.N. PRASAD, HON'BLE MEMBER (JUDICIAL)**

**SHRI. RAHUL BHATNAGAR, HON'BLE MEMBER (TECHNICAL)**

**ORDER**

Order pronounced in open Court vide separate sheets.

CA/213/2022 IN 879/59/ND/2019 stands dismissed.

**SD/-**

**(RAHUL BHATNAGAR)**

**MEMBER (TECHNICAL)**

**SD/-**

**(P.S.N. PRASAD)**

**MEMBER (JUDICIAL)**

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
NEW DELHI  
BENCH-VI**

**CA/213/2022 IN 879/59/ND/2019**

Section: Under Section 59 of the Companies Act, 2016.

**In the matter of:**

**Amrex Marketing Private Limited**

...Applicant

**Versus**

**Universal Conveyor Beltings Limited & Ors.**

...Respondents

**And in the matter of:**

**Universal Conveyor Beltings Limited,**

Registered Office at: 402-403, Pragati House, 47-78 Nehru Place, New  
Delhi-110019.

...Applicant

Versus

**Amrex Marketing Private Limited**

Registered Office at: 6, Belvedere Road, Kolkata- 700027.

...Respondent

**Coram:**

**SHRI. P.S.N. PRASAD, Hon'ble Member (Judicial)**

**SHRI.RAHUL BHATNAGAR, Hon'ble Member (Technical)**

**Counsel for Applicant** : Ms. Raddhika Khanna

**ORDER**

**PER: P.S.N PRASAD, MEMBER (JUDICIAL)**

**Date: 14.09.2023**

1. This is an application filed by the Applicant/Respondent No. 1 under Rule 11, NCLT Rules, 2016 seeking following reliefs:
  - a) Allow the present application and clarify the Order dated 14 January 2020 to the extent that the share capital will be maintained even if the shareholding of the Respondent No. 1 company is reallocated;
  - b) Grant liberty to the Respondent No. 1 to redeem the cumulative preference shares in terms of the provisions of the Companies Act 2013;
  - c) In the alternate, vacate the status quo on the share capital of the Respondent No. 1 Company granted by this Hon'ble Tribunal vide its Order dated 14 January 2020; and

- d) Pass any other orders or directions as may be deemed fit and appropriate in the facts and circumstance of the present matter.
2. The brief facts as alleged by the Applicant in filing the present Application are as follows:
- i. That the present application is being filed by the Applicant seeking clarification of the Order dated 14.01.2020 passed by this Hon'ble Tribunal in the captioned petition bearing Company Petition No. 879/59/ND/2019 preferred by the Petitioner in October 2019.
  - ii. That vide order dated 14.01.2020, this Tribunal granted status-quo with regard to the "share capital to be maintained till the next date of hearing", the said submission and observation was vehemently opposed by the Respondent No. 1-4.
  - iii. That thereafter, on 04.02.2020, when the matter was listed before this Tribunal, detailed arguments on the preliminary/limited issue of maintainability were made by the Petitioner and the Respondent No. 1-4, and the said arguments were heard at length by this Tribunal. However, this Tribunal

directed the parties to explore the possibility of an amicable settlement. Accordingly, the Respondent vide its letter dated 13.02.2020 approached the Petitioner to explore the possibility of a settlement, however the parties could not reach at an amicable settlement.

- iv. That that Respondent No 1 Company initiated the process in October 2018 for Redemption of 26,500 14% Cumulative Preference Shares of INR 100/- each.
- v. That the redemption is a legal obligation of the Respondent No. 1 Company as per Section 55 of the Companies Act. It is further submitted that redemption of redeemable preference shares can happen out of profits of the company or out of the proceeds of fresh issue of shares. Pertinently, when the Respondent No. 1 Company initiated the process of redemption of the Preference Shares, in October 2018, the Respondent No. 1 Company had adequate profits in the books however, owing to share certificates not being available then with their Custodian SHCL, redemption could not be undertaken.
- vi. That the Respondent No. 1 Company has now an option to issue 0 coupon Preference Shares to the promoter group out of

the loan amount outstanding with the Respondent no. 1 Company for INR 26,50,000/- and redeem 26,500 14% cumulative redeemable preference shares of INR 100/- each for total value of INR 26,50,000/-

- vii. That the above redemption of the cumulative preference shares shall in no manner change or impact or dilute the share capital of the Respondent No. 1 Company as has been directed by this Tribunal.

3. The Respondent in this Application has filed his reply stating as follows:

- i. That the present application is premature and wholly untenable in law and facts. It is an attempt to once again manipulate the valuation of assets and shares, which are under scrutiny by the Independent Valuer and the redemption of preference shares ought to wait till the submission of report of Independent Valuer vide order dated 01.07.2022, passed by this Tribunal.
- ii. That this Tribunal vide order dated 01.07.2022 directed the Applicant to appoint an Independent Valuer and submit its

report within 3 months. Had the Applicant no malafide intention in the first place, they ought to have complied with the order passed by this Tribunal and by now the report of the Independent Valuer would also have been submitted and the Applicant could have redeemed their preference shares. Thus, the very own conduct of the Applicant defeats the false sense of obligation and urgency created by way of the present Application.

- iii. That the redemption which was on hold for a period of 4 years could also wait for a period during which the Independent Valuer would carry out its investigation. Further the present application is nothing more than an attempt to create a roadblock in the way of the investigation directed to be carried out by the Independent Valuer.
- iv. That it is the case of the Applicant that the amount which it intends to raise by virtue of issuing zero-coupon preference shares is to be treated as a loan. This is not tenable in law, as any such amount, to be treated as a loan on the Company which requires a prior sanction of this Tribunal.

- v. That the Applicant has failed to show that the said redemption can't be done out of profits of the Company and such redemption is nothing but an indirect buy-back of shares of the Company by the promoters.
  - vi. That issuance of fresh preference shares in place of preference shares issued earlier are bound to alter the share capital of the Applicant Company.
4. We have gone through the submissions of both the parties. The Applicant/Respondent No. 1 has filed this application for Redemption of 26,500 14% Cumulative Preference Shares of INR 100/- each. The Applicant has stated that it will redeem the said preference shares by issuing 0 coupon Preference Shares to the promoter group out of the loan amount outstanding with the Respondent no. 1 Company for INR 26,50,000/- only and redeem 26,500 14% cumulative redeemable preference shares of INR 100/- each for total value of INR 26,50,000/-. The Respondent has filed its reply stating that the redemption which was on hold for a period of 4 years could also wait for a period during which the Independent Valuer would carry out its investigation. The



Independent Valuer was appointed to ascertain the fair value of shares of the Respondent No. 1/Applicant Company. The independent valuer has filed his report and the matter is pending adjudication at a very advanced stage. Without going into the merits of the present Application, at this stage there appears to be no urgency in allowing the present Application as the Applicant has clearly stated that the redemption was pending since 2018. Since the matter is at the advanced stage of adjudication, this Tribunal is of the considered view that entertaining the present application will result in unwanted delay in adjudication. Further, there appears to be no harm in waiting for redemption for a few more months until the disposal of the main matter.

5. In view of the above, CA/213/2022 in 879/59/ND/2019 stands dismissed, without costs.

SD/-

**(Rahul Bhatnagar)**  
**Member (Technical)**

SD/-

**(P.S.N Prasad)**  
**Member (Judicial)**