

**DIVISION BENCH**

**ITEM NO. 116**

**NATIONAL COMPANY LAW TRIBUNAL  
ALLAHABAD BENCH  
PRAYAGRAJ**

**CP No. 42/ALD/2023**

**CORAM:**

- 1. SHRI PRAVEEN GUPTA,  
HON'BLE MEMBER (JUDICIAL)**
- 2. SHRI ASHISH VERMA,  
HON'BLE MEMBER (TECHNICAL)**

**Date of Order: 23<sup>rd</sup> May, 2023**

**Attendance-Cum-Order Sheet of the Hearing**

<b>NAME OF THE COMPANY</b>	<b>DLT GLOBAL INC. V/S DLT LABS TECHNOLOGIES PVT. LTD. &amp; ORS.</b>
<b>UNDER SECTION</b>	<b>241/242 &amp; 244 OF COMPANIES ACT, 2013</b>

**COUNSEL APPEARED THROUGH PHYSICAL CONFERENCING:**

Sh. Krishnendu Datta, Sr. Adv. assisted by Sh. Varun Lamba, Dr. Abhimanyu Chopra, Sh. Ram Kaushik, Sh. Aman Chaudhary, Ms. Shubhangi Jain, Sh. Arnab Ray & Ms. Simran Bhat, Adv.  
*: For the Petitioner*

Sh. S.S. Nigam Sr. Adv. Assisted by Sh. Abhishek Srivastava alongwith Sh. Rajat Mathur, Adv.  
*: For the Respondent No. 2 to 6*

Sh. Pritish Kumar alongwith Sh. Amal Rastogi & Sh. Rajesh Kumar Srivastava, Adv.  
*: For the Respondent No.7*

Ms. Mahima Jaiswal, Adv.  
*: For the Respondent No.10*

**ORDER**

- The present petition has been filed by the petitioner under Section 241/242 read with Sections 212 and 213 of the Companies Act 2013 read with Rule 11 of NCLT Rules, 2016. The relief sought in the main petition are as under:-
  - Declare that the Respondent Nos. 2 to 5 are guilty of acts of oppression and/or mismanagement and pass appropriate Orders to put to an end the matters complained of in the present Petition;*
  - Frame an appropriate scheme of administration in relation to Respondent No.1,*

**-Sd-**

**-Sd-**

- c. *Direct the removal of Respondent Nos. 2 to 5 from the Board of Directors of the Respondent No. 1;*
  - d. *Direct the termination of all contracts, contractual and business relationships entered into by Respondent No.1 with Respondent Nos. 7 to 10 and other setups introduced directly or indirectly to the Respondent No.1 in which the Respondent Nos. 2 to 5 have direct or indirect interests;*
  - e. *Declare that Respondent Nos. 2 to 5 as well as the partners/directors/officers in-charge or Respondent Nos. 6 to 10 shall be personally liable, without any limitation of liability, for the fraudulent conduct of business including engaging in siphoning-off/misappropriating the resources/funds of the Respondent No. 1 company, and pass such directions as this Hon 'ble Tribunal may think fit for the purpose of giving effect to the declaration;*
  - f. *Direct Respondent Nos. 2 to 5 and Respondent Nos. 7 to 10 and other setups introduced directly or indirectly to the Respondent No. 1 in which the Respondent Nos. 2 to 5 have direct or indirect interests, to transfer the title of any and all assets and the gains procured directly or indirectly from the sums paid by the Respondent No. 1, free of cost;*
  - g. *Pass appropriate orders under Section 212, 213, 241, 242, 246 of the Companies Act, 2013, to bring an end to the acts of oppression and mismanagement perpetrated by Respondent Nos. 2 to 5 in the matter of Respondent No. 1.*
  - h. *Direct the Respondent Nos. 2 to 5 to bear the costs of pursuing the present company petition.*
  - i. *Pass such other orders as this Hon 'ble Tribunal may deem fit and proper in the interest of justice.*
2. The interim reliefs has sought by way of filing an additional document vide Diary No.1454 dated 18<sup>th</sup> May, 2023 are as under.
    - i. *Pass an order of injunction restraining the Respondent Nos. 2 to 5 from functioning, holding themselves out as directors of Respondent No. 1 with*

*immediate effect and from conducting the affairs of the Respondent No. 1, until the disposal of the present Petition;*

- ii. Pass an order of injunction restraining the Respondent No. 2 to 5 and their nominees, assigns, etc. from dealing with the assets of Respondent No. 1, including the shares of Respondent No. 1.*
- iii. Pass an order directing the Respondent Nos. 2 to 5 to hand over all the assets, tangible and/or intangible, and records books, papers and documents of the Respondent No. 1 to the Petitioner.*
- iv. Direct the appointment of an eminent person to act as Administrator at such fee as may be decided by the Administrator, to administer the affairs of the Respondent No. 1, until the disposal of the present Petition;*
- v. Direct the appointment of nominee directors by the Petitioner on the Board of Directors of the Respondent No. 1 to conduct the day to day affairs of Respondent No. 1 or in the alternative, appoint an independent Board of Directors comprising of eminent persons to conduct the day to day affairs of Respondent No. 1 till the disposal of the present Petition;*
- vi. Order that a meeting of Respondent No. 1's Board of Directors/Shareholders be called, held and conducted by shorter notice for undertaking relevant matters as permitted under the Companies Act, 2013, in such a manner as this Tribunal think fit;*
- vii. Direct the Respondent Nos. 2 to 5 to disclose all transactions undertaken directly or indirectly by them and their relatives and friends with Respondent Nos. 7 to 10, to this Hon'ble Tribunal;*
- viii. Direct the suspension of payments under all contracts, contractual and business relationships entered into by Respondent No. 1 with Respondent Nos. 7 to 10 and other setups introduced directly or indirectly to the Respondent No. 1 in which the Respondent Nos. 2 to 5 have direct or indirect interests, until the disposal of the present Petition while granting ability to*

*the Respondent No. 1 to continue the use of the tangible and intangible assets under the said arrangements;*

*ix. Direct the freezing of the bank accounts of Respondent Nos. 7 to 10 and other setups introduced directly or indirectly to the Respondent No. 1 in which the Respondent Nos. 2 to 5 have direct or indirect interests, and the bank accounts of Respondent Nos. 2 to 5 and their relatives and friends in which the said Respondents have received moneys from the arrangements with the aforesaid smoke screen entities;*

*x. Direct all banks in which the Respondent No. 1 holds bank accounts, to transfer banking authorizations in favor of the Petitioner's nominees;*

*xi. Direct forensic audit/ investigation into the dealings of Respondent No. 1 with Respondent Nos. 7 to 10 by appointing an independent Big4 Firm (KPMG, Deloitte, E&Y, PwC)*

*Or in the alternative, Direct the Central Government to intimate an independent inquiry/forensic audit/investigation into the affairs/dealings between Respondent No. 1 on one hand and Respondent Nos. 7 to 10 and other setups introduced directly or indirectly to the Respondent No. 1 in which the Respondent Nos. 2 to 5 have direct or indirect interests on the other hand; and*

3. It is averred in the petition that respondent No.1 is the wholly owned subsidiary of the petitioner. The respondent No.1 Company has been engaged in providing exclusive back end support to the services rendered by the petitioner globally. The paid up share capital of the Respondent No.1 Company is Rs.7.34 Crore comprising of 10,000/- equity shares of Rs.10 each and 73.30 Lakh preference shares of Rs.10 each. The Petitioner holds 10,000 equity shares in the Respondent No.1 Company which includes 10 shares being held by Respondent No. 3 as the nominee share holder of the Petitioner. Separately, the Respondents No.3 and 5 collectively hold a total of 73.30 lakh non-convertible preference shares in the Respondent No.1 Company.

4. The Respondents No.2 to 5 are current Director of the Respondent No.1 Company. The Respondent No. 1 and Petitioner had entered into a Development Services Agreement (DSA) for providing back and support services to the Petitioner. Under the DSA, the Respondent No.1 acknowledged that all 'Confidential Information' exchanged, 'Work Products' development created while rendering the 'Services' under the DSA and other proprietary and intellectual properties shall be solely and exclusively owned by the Petitioner in perpetuity and for worldwide territory and all rights, title and ownership in the same shall vest with the Petitioner. It is alleged that Respondent No.7 Company was incorporated and Respondent No.1 and Respondent No.7 entered into an agreement purportedly for IT related services and supplies to Respondent No.1 and the Respondent No.7 to 10 have been created with a sole objective to siphon off the money of the Respondent No.1 Company, some of which are having the same objectives and areas of operations as that of Respondent No.1 thereby creating conflict of interest as these companies are being created by the Private Respondent Nos.2 to 5 being the related parties by inflating the prices of the goods and services supplied to Respondent No.1.
5. The notice in the present petition was issued 18<sup>th</sup> May, 2023 where the following order was passed.
  - i. *Let the notices be issued to the respondents. Ld. Counsels representing the Respondents no. 2 to 6 accepts notice and therefore, waives service.*
  - ii. *There is no representation on behalf of Respondents no.7 to 10 despite the advance copy of the petition having been served.*
  - iii. *Let the notices be served to the Respondents no.7 to 8 by way of an email/speed post. Service within two days.*
  - iv. *It is stated by the Ld. Counsel representing the Respondents no. 2 to 6 that no adverse business/ financial transactions prejudicial to the interest of the respondent no.1 company shall be undertaken till the next date of hearing. Seeks time to file short affidavit within a period of three days.*

- v. Let the matter to come up for further hearing on 23<sup>rd</sup> May, 2023 higher on the board.*
6. The respondents have filed the reply vide Diary No.1484 dated 23<sup>rd</sup> May, 2023 contesting the averments mentioned in the Petitioner and the copy of the same had been supplied to the Ld. Senior Counsel representing the Petitioner on 22<sup>nd</sup> May, 2023 in the evening.
  7. We have heard the Ld. Counsels for the parties on interim prayer particularly with regard to the appointment of Administrator to administer the affairs of the Respondent No.1 Company. After arguing for some time, the Ld. Sr. Counsels representing the Petitioner as well as the Respondents agreed that an Administrator be appointed to manage the affairs of the Respondent No.1 Company and also jointly agreed on the name of Hon'ble Mr. Justice Vineet Saran (Retd.) Supreme Court, to act as an Administrator to run the affairs of the Respondent No.1 Company in accordance with the Articles and Memorandum of Association of the Respondent No.1 Company as well as Provisions of the Companies Act so that the affairs and the business of the Company continue to operate without any hindrances. It is also stated that there are about 250 employees working in the Respondent No.1 Company and therefore, there is also much stakes involved about their future in terms of payment of salary and their dues etc. which would get prejudiced, if the affairs of the Company are not being run by an independent Administrator as above.
  8. After perusing the record and after hearing the submissions on behalf of the Ld. Sr. Counsels representing the Petitioner and the Respondents and at this stage, without going into the rival contentions and without making any observations/opinion on the merits of the matter, we are inclined to accept the joint request made by the Ld. Counsels representing the Parties for appointment of Hon'ble Mr. Justice Vineet Saran (Retd.) Supreme Court as Administrator to run the affairs of the Company as per its objective, Articles and Memorandum of Association and in accordance with the Provisions of the Companies Act. The Board of Director, therefore, would

remain suspended during this interregnum arrangement which will continue till further orders. We also deem it fit to fix the remuneration of the Administrator as consolidated monthly salary of Rs. 3 lakh (including any allowance relating to house and vehicle). Other expenses incurred by the Administrator and any allowance or fees to be paid to him in discharge of his duties for managing the affairs of the Respondent No.1 Company, shall be paid on actual basis as per the provision of the Companies Act, 2013. Entire payment as mentioned above, shall be borne by the Respondent No.1 Company. The Administrator shall also be entitled to appoint/engage services of any consultants for smooth functioning of the affairs and business of the Company from time to time on such terms and payments as may be deemed to be appropriate in accordance with the requirement of such works/services.

9. The Ld. Sr. Counsel representing the Petitioner seeks four weeks' time to file Rejoinder to the reply received. Let the needful be done within a period of four weeks with advance copy to be supplied to the Ld. Sr. Counsel representing the Respondents. Pleadings would also be completed by the remaining Respondents and replies would be filed within four weeks with advance copy to be supplied to the Ld. Counsel representing the Petitioner and rejoinder, if any, to such Replies would be filed within a period of two weeks thereafter.
10. List this matter for 4<sup>th</sup> August, 2023 for further hearing.

*-Sd-*

**(Ashish Verma)**  
**Member (Technical)**

**23<sup>rd</sup> May, 2023**

*Priya Agarwal*  
*(Stenographer)*

*-Sd-*

**(Praveen Gupta)**  
**Member (Judicial)**