

NATIONAL COMPANY LAW TRIBUNAL
COURT-V, MUMBAI BENCH

2. IA/106/2022 CP/372(MB)2021

CORAM:

SMT. ANURADHA SANJAY BHATIA,
MEMBER (T)

SH. H. V. SUBBA RAO,
MEMBER (J)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON **11.10.2022**.

NAME OF THE PARTIES: ATA FREIGHT LINE (INDIA) PRIVATE LIMITED
Vs.
Registrar of Companies

SECTION: 252(3) of the Companies Act, 2013 & Rule 11 of NCLT

ORDER

IA/106/2022:- The above IA is filed by the Petitioner claiming the following reliefs:

- a) Modify the order dated 22 March 2022 by making it clear that it is the 2nd Respondent company, Sun Clearing and Forwarding Services Pvt. Ltd., which it to be restored and not the Petitioner.
- b) Modify the order dated 22 March 2022 by also directing the 1st Respondent to disclose as to what provisions were made by it under section 248(6) for protecting the interests of Respondent no.2's creditors before striking off Respondent no.2's name from the register of companies.

The Petitioner filed the main Company Petition 372 of 2021 claiming the following reliefs:-

- (A) Respondent no. 1, the Registrar of Companies, Mumbai be directed to disclose as to what provisions have been made by it under section 248(6) for protecting the interests of Respondent no.2's creditors before striking off Respondent no.2's name from the registrar of companies.
- (B) If "sufficient provision" has been made to the satisfaction of Respondent no.1, for an order and direction to Respondent no.1 to invoke/utilise the same to pay Respondent No.2's debts to the Petitioner and/or an order and direction to Respondent no.3-5 to comply with their undertaking as may have been given to Respondent No.1.
- (C) If sufficient provision has not been made, for an order to Respondent no.1 to now make sufficient provision for discharge of Respondent no2's debts, including but not limited to restoring Respondent no.2 to the register of

members and/or liquidating its assets and/or calling upon Respondent nos.3-5's undertaking to ensure repayment of Respondent no.2's debts to the Petitioner.

(D) Pass any other order and make such other provision as it may deem just for placing Respondent no.2's creditors in the same position as nearly as may be as if the name of the company had not been struck off from the register of members.

This Tribunal inadvertently passed final order on 22nd March 2022 in the main CP as if the Petitioner sought restoration of the name of M/s Sun Clearing and Forwarding Services Private Limited. However, inadvertently ordered the restoration of the name of the Petitioner Company that is ATA Freight Line India Private Limited instead of M/s Sun Clearing and Forwarding Services Private Limited in the order.

Now the Petitioner filed the above IA 106 of 2022 for modification of the order dated 22nd March 2022 for restoration of M/s Sun Clearing and Forwarding Services Private Limited. As sated above no specific prayer was sought by the Petitioner for restoration of the name of M/s Sun Clearing and Forwarding Services Private Limited in the main Company Petition except the above reliefs mentioned above.

The above IA is filed by the Petitioner only taking advantage of the inadvertent error in the order passed by this Tribunal.

Under these circumstances this Tribunal is of the opinion that there are no merits in the above application and the same is liable to be rejected. Accordingly, the above IA is **dismissed**.

Sd/-
ANURADHA SANJAY BHATIA
Member(Technical)

Sd/-
H. V. SUBBA RAO
Member(Judicial)

/z/