

NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH

COURT III

8. C.A. 22/2023

IN

C.P. 262/2022

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

MS. MADHU SINHA, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON **23.01.2023**

NAME OF THE PARTIES: Namra Parikh

V/s.

Credify Technologies Private Limited.

SECTION 241(1), 242(4), 244(1), 246 OF COMPANIES ACT, 2013

ORDER

Mr. Shyam Kapadia a/w Ms. Gauri Tyagi, Mr. Gandhar Raikar, Mr. Sanket Singh i/b Meraki Chambers, counsel for the Petitioner and Mr. Gaurav Joshi a/w Mr. Feroze Patel, Kingshuk Banerjee, Arnav Mohanty and Nidhi Kulkarni i/b Khaitan & Co., counsel for the Respondent Nos. 2 to 4 are present through virtual hearing.

C.A. 22/2023

No reply is filed by the Respondents in the above Company Application. Mr. Shyam Kapadia, the counsel appearing for the Applicants pending disposal of the above application insisted for grant of injunction restraining the Respondents from conducting EGM tomorrow i.e. 24.01.2023 proposing to remove the applicants from the directorship of the company and also restrain them from taking any step in relation to the same or in the event, the EGM scheduled to be held on 24.01.2023 is conducted, then this Hon'ble Tribunal be pleased to stay the operation and effect of any resolution passed by the

Company therein in so far as it relates to removal of the Applicants from the Directorship of the Company and/or take any steps for change of ROC records in furtherance thereof.

Mr. Gaurav Joshi learned Senior counsel appearing for the Respondent vehemently opposed for grant of any interim relief contending that this Tribunal has very limited power of judicial review in restraining the company from conducting EGM as per the law laid down by the Hon'ble Supreme Court in the following judgments:

- i. *Rajeev Kapur and others Vs. Grentex & Company Private Limited and others in Company Appeal No. 7 of 2010 in Company Petition No. 112/397-398/CLB/MB/2008 along with Company Application Nos. 4/10, 11/11, 14/11 & Company Application (L) Nos. 13/10, 13/11 and 44/11 decided on March 6, 2013.*
- ii. *Hanuman Prasad Bagri and others Vs. Bagress Cereals Pvt. Ltd and Others in SLP (C) No. 17137 of 2000 decided on March 27, 2001.*
- iii. *Life Insurance Corporation of India Vs. Escorts Ltd and others in Civil appeal No. 4598 of 1984 with Civil Appeals Nos. 497-499 of 1985 decided on December 19, 1985.*
- iv. *Narayandas Shreeram Somani (in CA No. 801 of 1962) and Ramkrishna Ramratan Somani and another (in CA No. 802 of 1962) Vs. Sangli Bank Ltd. (In both the appeals) in Civil Appeals Nos. 801 and 802 of 1962, decided on April 15, 1965.*
- v. *Invesco Developing Markets Fund and others Vs. Zee Entertainment Enterprises Limited and others in the High Court of Judicature at Bombay Ordinary Original Civil Jurisdiction Appeal (L) No. 25420 of 2021 in Interim Application (L) No. 22525 of 2021 in Suit (L) No. 22522 of 2021 with Interim Application (L) No. 25423 of 2021.*

He further contends that the Petitioner deliberately failed to handover the passwords and Login ID of the software belonging to the Respondents

company despite direction given by this Tribunal on account of which the Respondents was forced to create another software by spending money. He has also contended that the Petitioners are running another competitive company which is detrimental to the business interest of the 1st Respondent company. He further asserts that this tribunal has already rejected interim relief once to the Petitioners against which the Petitioners challenged the said order before NCLAT and therefore no interim relief shall be granted to the Petitioners.

After hearing both sides and upon perusing the material this Bench is in complete agreement in so far as its limited power of restraining the board from conducting EGM as per the above law laid down by the Supreme Court. Since the Petitioners are also alleging serious allegations against the Respondents, about oppression and mismanagement, this tribunal feels it is just and equitable to restrain the Respondents from giving effect to the resolution, if any, passed by EGM in the meeting scheduled to be held tomorrow. Accordingly, the Respondents are hereby permitted to go ahead with the EGM scheduled to be held tomorrow in which the Applicants are also eligible to participate. However, the Respondents are hereby restrained from giving effect to the removal of the Directorship of the Applicants until further orders.

List the main Company Petition on **30.01.2023**.

Sd/-
MADHU SINHA
Member (Technical)
//SGP//

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