

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH (COURT- I) CHENNAI**

ATTENDANCE CUM ORDER SHEET OF THE HEARING
HELD ON **14.02.2024** THROUGH VIDEO CONFERENCING

PRESENT: HON'BLE SHRI. SANJIV JAIN, MEMBER (JUDICIAL)
HON'BLE SHRI. VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

APPLICATION NUMBER :
PETITION NUMBER : CP(CA)/23(CHE)/2023
NAME OF THE PETITIONER(S) : M. Ct. P. Chidambaram
NAME OF THE RESPONDENTS : Sivagami Holdings Pvt Ltd and another
UNDER SECTION : Sec 97 of CA, 2013

ORDER

Ld. Counsel Shri. A K Mysamy for the Petitioner.

Ld. Counsel Shri. Anant Merathia for the Respondent No. 2.

This petition has been filed seeking directions to Respondent NO.2 to hand over the entire books, report and accounts of the branch office of the Company at Balupet, Karnataka to the Statutory Auditors of the Company and to provide further documents for finalizing the financial statements of the company. Further direction has been sought to permit the Respondent NO. 1 to convene AGM upon completion of the Statutory Audit for the financial year ended 31.03.2022 after the approval of the Board of Directors of the Company.

In Reply to the Petition, it is stated that Respondent No. 2 is the shareholder and Director of the 1st Respondent company which is a family run company where his late father had 70% share holding and petitioner and Respondent No. 2 had 15% share holding respectively. His late father was managing the affairs of the company. It is stated that R2 is non resident of India and used to

come once in few months to India. It is stated he was never in possession of the branch office at Balupet. In the Board meeting, all the three directors of the Board had passed a resolution to appoint Shri. C.G. Pavan to execute certain estates and properties held in the name of the Respondent No. 1 and had given Power of Attorney in his favour. It is stated that it was his father who took a decision to sell the above property vide letter dated 14.10.2021. The sale proceeds came in the account of Respondent No. 1. It is stated that Respondent No. 2 is not involved in any financial transactions of the office nor had any say in the operations of the company nor the branch remained under his supervision. It is stated that Respondent NO. 2 is not in possession of any books of accounts.

Rejoinder filed by the Petitioner wherein it is stated that his late father was unable to manage the business of Balupet branch, so while retaining the financial controls, he passed on the administrative and operational control and management to the 2nd Respondent in 2016 and since then he was managing the affairs. It is stated that the financial transactions relating to that branch was authorised by his father under the instructions of Respondent no. 2, as can be seen from the Annexure A1. It is stated that as per the letter of the internal auditor dated 08.03.2023, the Balupet branch was jointly managed by his deceased father and Respondent No. 2 and accounts for the FY 2021-22 could not be prepared for want of necessary details from 2nd Respondent and other employees. It is stated that the Respondent No.2 also syphoned of the entire sale proceedings of the coffee plantation of the company at Karnataka which was initially credited into the company account on

28.10.2021 and there after transferred into the account of M/s. Gitanjali Estates, proprietor concern in the name of his late father on 01.11.2021 and 06.11.2021 respectively. It is stated that the entire sale consideration was transferred from Gitanjali Estates bank account to 2nd Respondent personal account on 09.11.2021 (Page 32 of the Rejoinder). It is stated that all these facts show that 2nd Respondent was managing the affairs of the branch at Balupet and had received the consideration which he did not account for.

Ld. Counsel for the Respondent No. 2, at this stage seeks time to take instructions from the Respondent no. 2 as to the above transactions as seen in the account statement of Gitanjali Estates at page 32 of the Rejoinder.

Ld. Counsel seeks and is granted two weeks time to make submissions in this regard.

List this petition along for hearing on **03.04.2024**. (physical hearing)

Sd/-

VENKATARAMAN SUBRAMANIAM)
MEMBER (TECHNICAL)

MG

Sd/-

(SANJIV JAIN)
MEMBER (JUDICIAL)