

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH – 1  
VC AND PHYSICAL (HYBRID) MODE  
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON  
28-03-2024 AT 10:30 AM**

**CP No. 3/97/HDB/2022**

**AND**

**MA(Companies Act)/6/2022, IA (CA) 51/2023, IA(CA) 47/2024 &  
Unnumbered IA (CA) /2024 E-filing No: 0494/2024 in CP No. 3/97/HDB/2022**

u/s. 97 of Companies Act, 2013

**IN THE MATTER OF:**

Mr. Ravi Shankar Gopalkrishnan in  
M/s. Hyderabad Pollution Controls Ltd

**...Petitioner**

**AND**

M/s. Hyderabad Pollution Controls Ltd

**...Respondent**

**C O R A M:-**

**DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER (JUDICIAL)  
SH. CHARAN SINGH, HON'BLE MEMBER (TECHNICAL)**

**ORDER**

**CP No. 3/97/HDB/2022**

This Tribunal in fact heard the submission of both sides in the main company petition. Both sides are directed to file written submission not exceeding 15 pages each on or before 15.04.2024, if not filed already. **For orders on 02.05.2024.**

**Unnumbered IA (CA) /2024 E-filing No: 0494/2024**

Orders pronounced. In the result, **this Un number IA is dismissed. No costs.**

**MA(Companies Act)/6/2022**

Learned Counsel Dr S V Ramakrishna, for applicant present.

Heard learned counsel for the applicant. Counsel on record for the respondent called absent. Learned proxy counsel Mr Maharshi Viswaraj, for respondent

present and requested for an adjournment is refused. **Orders reserved**, giving liberty to both sides to file brief written submissions not exceeding 10 pages within 10 days from today if not filed already.

**IA (CA) 51/2023**

Learned Counsel Dr S V Ramakrishna, for applicant present.

Heard learned counsel for the applicant. Counsel on record for the respondent called absent. Learned proxy` counsel Mr Maharshi Viswaraj, for respondent present and requested for an adjournment is refused. **Orders reserved**, giving liberty to both sides to file brief written submissions not exceeding 10 pages within 10 days from today if not filed already.

**IA(CA) 47/2024**

This is yet another application filed by the company petitioner. According to the learned counsel for the respondent this application is similar IA 51/2023. At request we grant one week time to the respondent to file counter and 10 days time for filing written submissions by both sides if not filed already. **Orders reserved.**

**Sd/-**  
**MEMBER (T)**

**Sd/-**  
**MEMBER (J)**

**NATIONAL COMPANY LAW TRIBUNAL  
HYDERABD BENCH-I  
AT: HYDERABAD**

**I.A. (CA) No. \_\_\_\_\_ 2024  
In  
I.A.(CA) 51/2023 &  
MA (Companies Act)/6/2022  
In  
CP No.3/97/HDB/2022**

**Between :**

1. **Mr. S.Radhakrishnan,**  
S/o. Late G.Sankaran Nair,  
Aged 68 years, R/o.83/B, Vengal Rao Nagar,  
Hyderabad – 500038, Telangana.
  
2. **Mrs.V.Thara,**  
W/o.SriS.Radhakrishnan,  
Aged 59 years, R/o.83/B, Vengal Rao Nagar,  
Hyderabad – 500038, Telangana.

**.....APPLICANTS/ RESPONDENTS 2 &3**

**AND**

1. **Mr.Ravi Shankar Gopalakrishnan**  
S/o. Late S.Gopalakrishnan Nair,  
Aged 44 years, R/o.204/205, Morning Glory,  
Nagarjuna Dream Land, Kompally,  
Secunderabad – 500 014, Telangana.

**.....RESPONDENT NO.1/PETITIONER**

**AND**

**2. HYDERABAD POLLUTION CONTROLS LTD.**

90/G, Phase-I, IDA, Jeedimetla,  
Hyderabad – 500055, Telangana.

**...RESPONDENT NO.2/ RESPONDENT No.1**

**3. M/s. VNR Associates,**

**Chartered Accountants**

**CA # Migh 358, Ground Floor**

**APHB, Balajinagar, Kukatpally,**

**Hyderabad – 500 072**

Email: [reach@vnassociates.com](mailto:reach@vnassociates.com)

**... PROFORMA RESPONDENT No.3**

**Date of Order : 28.03.2024**

**Coram**

Dr. Venkata Ramakrishna Badarinath Nandula, Hon'ble Member (Judicial)  
Shri Charan Singh, Hon'ble Member (Technical)

**Parties/ Counsels present:**

For the Applicant : Mr Dr SV Rama Krishna, Counsel.

**PER: BENCH**

1. Respondent No.2&3 in the Company petition have filed this Application praying to recall the order dated 07.02.2024. As Registry has taken the objection on the maintainability of this Application, the matter has been placed before the bench.

2. We have heard Learned Counsel for Applicant Dr. S. V. Rama Krishna, on it maintainability.

3. We hereby quote the order of this Tribunal which is as below:

“Orders pronounced. In the result, this Tribunal is of the opinion that an independent auditor needs to be appointed for verification of the books of accounts and the financial statements of the 1<sup>st</sup> respondent and for submitting a report.

Hence, we hereby appoint VNR Associates, CA # Migh 358 Ground Floor APHB, Balajinagar, Kukatpally, Hyderabad-500 072, having Mobile No.98664 31188 and email id- [reach@vnrassociates.com](mailto:reach@vnrassociates.com) for conducting the Internal Audit of the accounts maintained by the first respondent Company for the financial years 2019-2020 to 2020-2021, within a period of 3 weeks from the date of receipt of this order, and to submit the report.

Parties shall extend free access to the Auditor to all the necessary records besides shall extend necessary support, for conducting Audit. Both sides are directed to co-operate with the Auditor in completing the process, within the time fixed by this Tribunal.

Fee of the Auditor is fixed as Rs. 1,00,000/-, and the expenses as per actuals shall be borne equally by the Parties. Both sides shall deposit their share of fees of CA within three days from the date of receipt of this order and file compliance.

For report call on 14.03.2024. After the report is received from the Auditor, orders in IA's as well as Company Petition will be passed”.

4. Thus, from the aforesaid order it is clear that this Tribunal while keeping the Company petition and other IA's pending, passed the aforesaid order. It is pertinent to note that neither Company Applicant nor the respondent have preferred any Appeal against the above order. However, Respondents No.2&3 have chosen to seek recall of the aforesaid order.

Learned Counsel for the applicant at the outset vehemently contended that this Tribunal has the power to recall its own order and in support of this plea relied on ruling of Hon'ble NCLAT in re Union Bank of India Vs Dinkar T.Venkatasubramanian &Ors., wherein it was held that *“The power to review is not conferred upon this Tribunal but power to recall its judgment is inherent in this Tribunal since inherent power of the Tribunal are preserved, powers which are inherent in the Tribunal as has been declared by Rule 11 of the NCLAT Rules, 2016. Power of recall is not power of the Tribunal to rehear the case and find out any apparent error in the judgment which is the scope of a review of the judgement”*. Power of recall of a judgement can be exercised by this Tribunal when any procedural error is committed in delivering the earlier judgment; for example; necessary party has not been served or necessary party was not before the Tribunal when judgment was delivered adverse to a party. There may be other grounds for recall of a judgment. Well known ground on which a judgment can always be recalled by a Court is ground of fraud played on the Court in obtaining judgment from the Court.

5. We hereby make it clear that the power of this Tribunal to recall its own orders, is no longer res integra, as the above ruling clearly establishes so. However, the question herein is whether the order impugned can be recalled or not? But not whether this Tribunal is empowered to do so or not?

6. We now refer to the grounds on which the Applicant sought to recall the impugned order.

6.1 It is averred that the appointment of M/s.VNR Associates, Chartered Accountant as Internal Auditor for conducting the Internal Audit of Accounts maintained by the Respondent Company for the financial years 2019-20 to 2020-21 wherein there was no valid and authorized annual accounts since 2010-2011 till now.

6.2The Applicant/Respondents No.2&3 though represent 50% of shareholders in the Company, they are outside since 2010-2011 and any purported records of the Company are not verified, not confirmed and unauthorized apart from being fabricated as explained and exposed in other two pending Company Petitions vis. CP No.741/241/HDB/2018 AND CP No.225/241/HDB/2019 wherein in both cases, orders were reserved.

6.3It is averred that if any Internal Audit now proposed is carried out, it would be an aberration and against the principles of natural justice as any such report of Internal Auditor on the accounts exclusively created and maintained by the Respondent/Petitioner will not give true state of

affairs of the Company and would be under influence of the errant management and will be against the interest of justice and law.

7. Having carefully perused above the grounds, we have applied the test laid down in the aforementioned judgment to the grounds pleaded by the Applicant in this case for recall of our order dated 07.02.2024, and we found that none of the grounds envisaged in the aforementioned judgment are either pleaded or exist in this matter. Hence this Application deserves to be dismissed.

8. Accordingly, the same is hereby dismissed. No costs.

Sd/-

Charan Singh  
Member Technical  
*pavani*

Sd/-

Dr. Venkata Ramakrishna Badarinath Nandula  
Member Judicial