NATIONAL COMPANY LAW APPELLATE TRIBUNAL

PRINCIPAL BENCH

NEW DELHI

COMPANY APPEAL (AT) NO.29/2026

In the matter of:

Banthia Consultancy Through its Legal Manager Mr. Devesh Bharatbhai Modi Appellant

Vs

Toray Kusumgar Advanced Textile Pvt Ltd & Ors Respondent

For Appellant: Mr. Dhiren R Dave, Advocate.

For Respondent: Mr Munawwar Naseem and Ms Sanjana Dua, Advocates for R1.
Mr. Kunjal Dalal, PCS for R-9
Mr Vishal Dewang, Advocate.

ORDER

HYBRID MODE

03.07.2026: The process fee has not been filed in terms of the order dated 03.03.2026 and as such Respondents No. 2 to 6 could not be served.

2. Ld. counsel for the Appellant submits he intends to delete Respondents No.2 to 6. Considering the submission, the Respondents No.2 to 6 are deleted from the array of the parties. Amended memo of parties be filed.

3. Ld. counsel for the appellant also submits he does not want to file any rejoinder to the reply filed by Respondents No.1 and 9.

4. Final arguments were heard.

5. This appeal has been filed against an impugned order dated 20.11.2025 whereby an IA No.*133(AHM)2025* in CP/2(AHM)/2024 for bringing on record certain documents by the appellant was dismissed.

6. The brief facts of the case are the appellant had filed company petition No.2 of 2024 under Section *213* of the Companies Act, 2013 before the Ld. NCLT, Ahmedabad against Respondent No.1 placing on record extensive documentary evidence allegedly reflecting the affairs of the company being conducted in a fraudulent, unlawful and oppressive manner, with intent to defraud creditors and members.

7. The petition highlighted alleged serious statutory violations, including illegal related party transactions, manipulation of statutory records, erosion of net worth, absence of internal financial controls, illegal allotment of shares in violation of Section 62, filing of false annual returns and improper appointment of statutory auditors. The appellant sought directions for investigation under Section *213*, reference of large foreign currency transactions to SFIO and EOW, and other consequential reliefs.

8. Upon considering the merits of the petition, Ld. NCLT issued notice to the Respondents *vide* order dated 07.03.2024. Replies were subsequently filed by the Respondents, and the Appellant filed rejoinder thereto, except to the later filed reply of Respondent No. 8 and the report of the Registrar of Companies (ROC), in respect of which rejoinders were yet to be filed.

9. Parallel to the main Company Petition, Appellant filed complaints of professional misconduct before the Institute of Chartered Accountants of India (ICAI) and the Institute of Company Secretaries of India (ICSI) against the statutory auditor and company secretaries of R-1, who were instrumental in manipulation of statutory records and filing of false forms.

10. Pursuant thereto, the Disciplinary Committee of the ICSI, after completion of pleadings, issued a prima facie opinion dated 11.12.2024 *vide* order dated 25.09.2025 holding R-9 guilty of professional misconduct for issuing false certifications in Forms MGT-7 and MGT-8 for FYs 2020-21 and 2021-22, thereby allegedly substantiating the allegations made in the main petition.

11. To place this crucial and subsequent development on record, the Appellant filed Interlocutory Application No. *133 of 2025* before the Ld. NCLT, seeking only permission to place the said document on record, without seeking any substantive relief against any Respondent.

12. However, the Ld. NCLT, *vide* its impugned order dated 20.11.2025, dismissed the IA at the threshold on the erroneous premise thee pleadings in the main petition stood completed and the matter was at the final stage of adjudication. This was despite the fact on 13.11.2025 the Ld. NCLT had taken on record the ROC report and the reply of R-8 and had expressly directed the Appellant to file rejoinders thereto. The IA was dismissed without permitting submissions and without considering its limited scope and relevance.

13. Appellant being aggrieved by the dismissal of the IA without adjudication on merits, has preferred the present Appeal under Section *421* of the Companies Act, 2013, seeking setting aside of the impugned order and remanding the IA to Ld. NCLT for consideration on merits.

14. Learned counsel for the appellant has also referred to the order dated 13.11.2025 of the Ld. NCLT which reveals that the matter was kept on 29.01.2026 for completion of pleadings and at no stage the matter was listed for hearing of the arguments but whereas if one looks at the impugned order dated 20.11.2025 one would find the Ld. NCLT had held the matter has already been heard and is in the final stages of adjudication. It is the submission of the learned counsel for the appellant that the additional documents viz the report of the Disciplinary Authority of ICSI is a crucial document to be placed on record for decision of the petition under Section 213 of the Companies Act, 2013. He specifically referred to Section *213(b)(ii)* of the Companies Act, 2013 as ground for asking for investigation of accounts which reads as under:-

> *"persons concerned in the formation of the company or the management of its affairs have in connection therewith been guilty of fraud, misfeasance or other misconduct towards the company or towards any of its members; or*

15. It is submitted the Respondent No.9 being the Company Secretary was in management of the affairs of the company and prima facie found to be guilty of misconduct on the allegations levelled by the appellant herein before the ICSI and hence the said independent report is relevant and ought to have been

considered by the Ld. NCLT while disposing of the petition under Section *213* of the Companies act, 2013.

16. Considering the fact that the instant application was brushed aside on the ground the matter was at the final stage of adjudication but whereas it was listed for 29.01.2026 only for completion of pleadings and thus the relevant documents ought to have been considered to be taken on record so as to do complete justice and to resolve the real controversy in the matter.

17. Considering the submissions we allow the appeal and remand the matter to the Ld. NCLT directing IA No. *133/2025* be heard on merit and thereafter the matter be proceeded in accordance with.

18. The appealp stands disposed of.

19. Pending applications, if any, are also disposed of.

(Justice Yogesh Khanna)
Member (Judicial)

(Mr. Ajai Das Mehrotra)
Member (Technical)

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