(2022) 07 NCLT CK 0031

In the National Company Law Tribunal

Case No : Company Petition No. 94(KB) Of 2022

Dipak Kumar APPELLANT

Vs

Anant Basdeo Construction Private limited RESPONDENT

Date of Decision : 15-07-2022

Acts Referred:

Companies Act, 2013 — Section 96, 97, 101
National Company Law Tribunal Rules, 2016 — Rule 74

Citation : (2022) 07 NCLT CK 0031

Hon'ble Judges : Rohit Kapoor, Member (J);Harish Chander Suri, Member (T)

Bench : Division Bench

Advocate : Mohan Ram Goenka, Sneha Khaitan, Urmila Chakraborty, Tanvee

Final Decision : Disposed Of

Judgement

Rohit Kapoor, Member (Judicial)

1. The court convened via hybrid mode.

2. The present Company Petition has been filed by a shareholder of the Company, Mr. Dipak Kumar son of Basdeo Ram, holding 17256 shares as on 31/03/2021, representing 8.84% of the total issued, subscribed and paid-up share capital of the Respondent Company under section 97 of the Companies Act, 2013 praying for directions upon the respondent company to call and held Annual General Meeting for the Financial Years ended on 31/03/2020 and 31/03/2021 and consequential compliances.

3. The Respondent Company, Anant Basdeo Construction Private Limited was incorporated in 20th January 2005 under the Companies Act 1956. There are ten shareholders of the respondent Company as on 31/03/2019. The last Annual General Meeting of the Respondent Company was held on 30th September 2019 for the financial year ended on 31st March, 2019.

4. The Petitioner had approached the Respondent Company for holding the

Annual General Meeting for the Financial Years ending on 31st March, 2020 and 31st March, 2021. The Respondent Company had made a plea that the major shareholder and promoter, Mr. Basdeo Ram, who founded the company, being the active Director and Chief functionary taking care of all statutory compliances since its inception had died on 24.03.2020. The whole family of the deceased including the applicant herein and other directors were in quarantine, stress and trauma leading to non-attendance to the regular work of the company and it took time for them to heal, recover and come back to take control on the normal affairs of the respondent company.

5. The Petitioner states that as the Respondent Company herein could not get its account audited on time, therefore, the Annual General Meeting could not be held within the stipulated time period for the Financial Years ending on 31.03.2020 and 31.03.2021 respectively, as required under section 96 of the Companies Act, 2013.

6. The petitioner states that due to the aforesaid circumstances, the Annual General Meeting ("AGM") of the respondent company could not be held for the Financial Years 2019-20 and 2020-21, therefore, the petitioner prays for a direction for extension of time to hold the Annual General Meeting.

7. Ld. Counsel appearing for the Respondent Company has not raised any objection to the prayer of the petitioner.

8. In terms of Rule 74 of the National Company Law Tribunal Rules, 2016, the petitioner has served a copy of the application on the Registrar of Companies, Jharkhand and filed affidavit of service.

9. We have heard the Ld. Authorised Representative appearing for the Petitioner and the Ld. Counsel appearing for the Respondent Company. We are satisfied that the failure of the Respondent Company to hold the AGM for the Financial Years 2019-20 and 2020-21 within the stipulated time was not deliberate but only due to the reasons stated above. Also, there is no objection from any quarter towards extension of time for the purpose of holding AGM.

10. We, therefore, give the following directions in exercise of the powers conferred on this tribunal under section 97 of the Companies Act, 2013:

(a) The Respondent Company shall call, convene and hold a physical meeting of its members on or before 06/09/2022 to approve the Annual Financial Statements for the Financial Years 2019-2020 and 2020-2021 after issuing notice to all the members in accordance with section 101 of the Companies Act, 2013;

(b) Such a meeting shall be deemed to be an AGM of the Company;

(c) Covid-19 protocols and precautions in terms of directions issued by the Government and other public authorities shall be strictly adhered to at such meeting;

(d) The Respondent Company is being granted the liberty to approach this

Tribunal in case there is any difficulty in holding the Annual General Meeting as directed aforesaid.

11. The C.P. No.94/KB/2022 shall stand disposed of accordingly.

12. The Registry is directed to send copies of the Order forthwith to all the parties and their representative for information and for taking necessary steps.

13. The Registry is also directed to send a copy of this Order to the Registrar of Companies, Jharkhand, Ranchi.

14. Certified Copies of this order may be issued, if applied for, upon compliance of all requisite formalities.

15. File be consigned to records.