
(2021) 09 NCLT CK 0062

In the National Company Law Tribunal

Case No : CA/88/MB..II/2021 IN IA No. 892/2020 IN C.P.(CAA)/2854/
MB.II /2019 CONNECTED WITH C.A.(CAA)/1285/ MB.II /2019

Macrotech Developers Limited

APPELLANT

Vs

Bellissimo Estate Private Limited

RESPONDENT

Date of Decision : 23-09-2021

Acts Referred:

Citation : (2021) 09 NCLT CK 0062

Hon'ble Judges : Ashok Kumar Borah, Member (J); Shyam Babu Gautam,
Member (T)

Bench : Division Bench

Judgement

Shyam Babu Gautam, Member (Technical)

1. The Court is convened through videoconference.
2. The present Interlocutory Application is filed for recalling of the order dated 27 April 2020 sanctioning the Scheme of Arrangement between the Applicant Companies. The Applicant submits that the said Scheme is not yet effective i.e. the certified true copies of the final Order passed by this Hon'ble Tribunal are not filed with the Registrar of Companies (RoC) Mumbai, Maharashtra.
3. The Applicant further submits that the management is now contemplating other options in alignment with its long - term business requirements and other such related commercial objectives for the benefit of the Applicants and its stakeholders. The Applicant further submits that the Board meeting of First Petitioner Company was held on 05.03.2021 wherein Board Resolution for approving to recall and for setting aside the Final hearing Order was passed and is annexed to the Application. The Board meeting of Second Petitioner Company held on 25.01.2021 wherein Board Resolution for approving to recall and for setting aside the Final hearing Order was passed and is also annexed to the Application.

FINDINGS

4. Having heard the submissions of the Counsel appearing for the Applicant. In Anand Electronics and Industries Ltd. Appeal to Division Bench O.S.A 152 and 153/96 the same facts were observed as to rescind the Order of sanctioning the Scheme thereby citing Business reasons and that the same had also been approved by the Board of Directors of the Company and the Order of the Scheme was also not filed with the ROC. The Court observed instead of recalling the scheme, the scheme not to be given effect.

5. For the aforesaid reasons and in the light of above judicial precedent we hereby deem fit and proper not implement the scheme as it has not been into effect. The Order dated 27.04.2020 in CP No. 2854 of 2019 thereby sanctioning the scheme is not given effect.

6. Ordered accordingly. File be consigned to records.