
(2023) 04 NCLT CK 0020

In the National Company Law Tribunal

Case No : C.P. No. 19/KB/2023

Madhulika Murarka Vs Premier Polymers Private Limited ?

Date of Decision : 13-04-2023

Acts Referred:

Companies Act, 2013 — Section 96, 97(1)
National Company Law Tribunal Rules, 2016 — Rule 11, 74

Citation : (2023) 04 NCLT CK 0020

Hon'ble Judges : Bidisha Banerjee, Member (J); Balraj Joshi, Member (T)

Bench : Division Bench

Advocate : Shaunak Mitra, Amandeep Singh, Niraj Kumar Agarwal, Tanusree Paul

Final Decision : Disposed Of

Judgement

Balraj Joshi, Member (Technical)

1. The hearing was convened in a hybrid mode.
2. The present Company Petition under section 97(1) of the Companies Act, 2013, has been filed by a member/ shareholder Ms. Madhulika Murarka, seeking the Tribunal's orders for calling the Annual General Meeting for the Financial Year 2019-20 and 2020-2021.
3. The Respondent Company, Premier Polymers Private Limited was incorporated on 7th December, 1971 under the Companies Act 1956. The company held its Annual General Meeting on 29.08.2022 for approval of accounts for F.Y.2019-2020 and filed the same with ROC. Later on, it came to knowledge of the directors that the AGM cannot be a valid AGM and approval of the competent authority is required as per section 97(1) of the Companies Act, 2013 to call AGM beyond the time limit prescribed under Section 96 of Companies Act, 2013. That the AOC-4 and MGT-7A filed based on approval of account in AGM dated 29.08.2022 for the FY 2019-20 is not valid as the same need to be adopted in the AGM to be held after approval of this Adjudicating Authority.
4. The Petitioner states that the Respondent Company herein could not hold its General Meeting for the F.Y. 2019-2020 and 2020-2021 as the accounts of the

company could not be audited due to resignation of auditor during the Covid - 19 Pandemic. Statutory auditor of the company Resigned during the Covid period on 11.02.2021. One of the promoter directors of the company Mr. Purushottam Das Murarka died on 29.10.2021 due to Covid. Due to aforesaid unfortunate incidents, the books of accounts could not be completed and new statutory auditor could be appointed only on 12.05.2022.

5. The Petitioner prays to this Bench to allow and direct to convene the Annual General Meeting for the F.Y. 2019-2020 and 2020-2021 of the Respondent Company under Section 96 and 97(1) of the Companies Act, 2013 read with Rule 74 of the National Company Law Tribunal Rules, 2016.

6. We have heard the learned Counsel appearing for Petitioner and Ld. Counsel appearing for Respondent Company. The Ld. Counsel for the respondent does not have any objection to the application being allowed.

7. Accordingly, we hereby, give the following directions in the exercise of the powers conferred on this tribunal under section 97(1) of the Companies Act, 2013 read with Rule 11 and Rule 74 of the National Company Law Tribunal Rules, 2016:

(a) The Respondent namely Premier Polymers Pvt. Ltd. shall hold a General Meeting within 45 days from the date of this order, to finalise and approve the annual returns and financial papers in accordance with the procedure prescribed in the provisions of Companies Act, 2013 and Rules made therein. This meeting shall be considered as an Annual General Meeting for the purposes of the Companies Act 2013.

(b) The Respondent Company is directed to give 21 days' clear notice in advance, either in writing or through electronic mode in the manner prescribed every member of the Company, legal representative of any deceased member or the assignee of an insolvent member, the auditors of the Company and every director of the Company in accordance with section 101 of the Companies Act, 2013, informing therein the place, date, day and the hour of the meeting and shall contain a statement of the business to be transacted at such meeting.

8. The C.P. No. 19/KB/2023 is disposed of accordingly.

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

10. Registry is also directed to send a copy of this Order to the Registrar of Companies, West Bengal, Kolkata.

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

12. File be consigned to records.