
(2022) 01 NCLT CK 0034

In the National Company Law Tribunal

Case No : Interlocutory Application No. 2243 of 2021 In Company Petition No. 1139 of 2020

Sandhya Dinesh Sancheti

APPELLANT

Vs

Manoj Kumar Mishra

RESPONDENT

Date of Decision : 21-01-2022

Acts Referred:

Companies Act, 2013 — Section 161
Insolvency & Bankruptcy Code, 2016 — Section 5(24), 5(24A), 60(5)

Citation : (2022) 01 NCLT CK 0034

Hon'ble Judges : Suchitra Kanuparthi, Member J; Anuradha Sanjay Bhatia, Member T

Bench : Division Bench

Advocate : Shyam Kapadia, Arati Suryavanshi, Kunal Chheda

Final Decision : Dismissed

Judgement

Sr No, Name, Amount, Percentage

1., "Ahmednagar Merchants

Cooperative

Bank", "4,92,38,079/-", 18.44%

2., "Amesh Ajit Kumar

Daga", "3,58,11,454/-", 13.41%

3., "Nemichand Balram

Khinvasara", "5,14,92,569/-", 19.29%

4., "Dinesh Trilokchand

Sancheti", "4,34,16,078/-", 16.26%

5., "Sandesh Dinesh

Sancheti", "1,34,51,727/-", 5.04%

6., "Sandhya Dinesh
Sancheti", "1,25,46,816/-", 4.70%

7., "Arihant Medico Proprietor
Shashikanr
Zumberlal Kataria", "25,67,124/-", 0.96%

8., "Shashikanr Zumberlal
Kataria", "4,48,18,456/-", 16.79%

9., "Ashish Shashikant
Katariya", "28,88,014/-", 1.08%

10., "AjitKumar Shashikant
Kanyalal Daga", "1,07,73,619/-", 4.04%

, Total, "26,70,03,936/-", 100%

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(c) a person who is a trustee of a trust in which the beneficiary of the,,,

trust includes the individual, or the terms of the trust confers a power on the trustee which may be exercised for the benefit of the individual;,,,

(d) a private company in which the individual is a director and holds along with his relatives, more than two percent. Of its share capital;,,,

(e) a public company in which the individual is a director and holds along with relatives, more than two percent of its paid-up share capital;,,,

(f) a body corporate whose board of directors, managing director or manager, in the ordinary course of business, acts on the advice, directions or instructions of",,,,

the individual;,,,

(g) a limited liability partnership or a partnership firm whose partners or employees in the ordinary course of business, act on the advice, directions or instructions of",,,, the individual;,,,

(h) a person on whose advice, directions or instructions, the individual is accustomed to act;,,,

(i) a company, where the individual or the individual along with its related party, own more than fifty per cent. of the share capital of the company or controls the",,,,

appointment of the board of directors of the company.,,,,

Explanation.-For the purposes of this clause,-",,,,

(a) "relative", with reference to any person, means anyone who is related to another, in the following manner, namely:-",,,,

(i) Members of a Hindu Undivided Family",,,,

(ii) husband",,,,

(iii) wife",,,,

(iv) father",,,,

- (v) mother,",,
- (vi) son,",,
- (vii) daughter,",,
- (viii) son's daughter and son,",,
- (ix) daughter's daughter and son,",,
- (x) grandson's daughter and son,",,
- (xi) granddaughter's daughter and son,",,
- (xii) brother,",,
- (xiii) sister,",,
- (xiv) brother's son and daughter,",,
- (xv) sister's son and daughter,",,
- (xvi) father's father and mother,",,
- (xvii) mother's father and mother,",,
- (xviii) father's brother and sister,",,
- (xix) mother's brother and sister; and,,

(b) wherever the relation is that of a son, daughter, sister or brother, their spouses shall also be included;]",,

25. A bare reading of the above facts and conjoint reading of Sec.5(24) and Sec.5 (24A) of the Code, it can be said that Applicants are related parties",,,

in the capacity of Directors of Corporate Debtors who exercised control over the management by representing the Corporate Debtor pre-resignation,,,

and post-resignation as Directors and were also on the Board of Fresh Valley Foods LLP, which is a related party to the Corporate Debtor. The",,,

applicants were joint signatory to the bank account maintained by the Corporate Debtor and have been actively involved in the internal management of,,,

the Corporate Debtor. They have also given personal guarantees to the loan given by the Corporate Debtor. The copy of the COC meeting further,,,

reveals that on 08.02.2020 and 11.02.2020 the applicants namely Mr. Shashikant Zumbarlal Katariya, Ms. Sandhya Dinesh Sancheti, Mr. Nemichand",,,

Balaram Khinvasara and Mr. Amesh Ajitkumar Daga have attended the CoC meeting in the capacity of the Suspended Directors of the Corporate,,,

Debtor. The above key factors demonstrate that the applicants are related parties.,,,

26. This court doth orders as follows;,,,

a. The categorisation of the applicants being related parties is upheld.,,,

b. The I.A. No. 2243 of 2021 is dismissed.,,,

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