

COMPANY LAW BOARD
NEW DELHI BENCH
NEW DELHI

MENTIONING

CP NO. 62(ND)/2015

CA NO. 196/C-1/2016

PRESENT: CHIEF JUSTICE M. M. KUMAR
CHAIRMAN

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NEW DELHI BENCH OF THE
COMPANY LAW BOARD ON 24.05.2016

NAME OF THE COMPANY: **Sh. Nand Lal Bhatia**

Vs.

Kuldeep Kaul & Anr

M/s. HBE Avioseec Pvt. Ltd. & ors.

SECTION OF THE COMPANIES ACT: 397, 398, 402, 403 and 404 of the Companies Act 1956.

S.NO.	NAME	DESIGNATION	REPRESENTATION	SIGNATURE
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1.	MR. RIDDHARTH YADAV (ADV.)		} For	
2.	MS. NISHI BARANWAL (ADV.)		} Petitioners	} Nishi
3.	MR. U.K. Chaudhary, Sr. Adv.			
4.	MR. N.P.S. Chawla, Adv.		} For	
5.	MR. Himanshu Vij, Adv.		} Respondents	} [Signature]

ORDER

P.T.O.

CA No.196(C-1)/2016:

This is an application seeking clarification of the order dated 16.05.2016.

In the 3rd line of the last but two paras of the order, it has been recorded that the "Vendor due" amounting to 50% is required to be paid by BEL. The applicant-petitioner have sought clarifications.

A copy of the application has been furnished to the non-applicant-respondent and I have heard learned counsel. After hearing I find there is consensus between them to add the following paras before the last but two paras of the order.

Accordingly in the last but two paras of the order, the following paras be added.

' The BEL is required to pay a sum of GBP 975813.00 to Petitioner No.4 in the bank account at SBI Dubai branch. Out of the aforesaid amount, a sum of GBP 369123.05 is required to be paid to the Vender Company Moog Fernau.

It is further clarified that the name of the Vendor Company be rectified to be read as Moog Fernau.

The application stands disposed of.

Order Dasti.

 24.05.2016
(CHIEF JUSTICE M.M. KUMAR)

CHAIRMAN

Dated: 24.05.2016
(Ravi)

ORDER

CA No.136/C-1/2016

This is an application filed by the Petitioner (Bhatia Group) with a prayer for issuance of directions to respondents (Kaul Group) to sign cheques for 'Vendor Payments' amounting to Rs.INR 1,37,66,556/-. It is appropriate to mention that this court has passed an order on 29.02.2016 appointing S.C. Vasudeva & Co. (Chartered Accountants) to look into the demanded amount by the petitioner –applicant as nothing was clear to the Court from the accounts and pleadings. It was considered appropriate to seek expert opinion of S.C. Vasudeva & Co. who was to send his report on the issue whether it would be in fitness of things to release a sum of Rs. 2,33,16,317/- to the applicant-petitioner (Bhatia Group) and issuance of consequential direction to non applicant-respondent for signing of cheques (Kaul Group). As per the order passed by this court, S.C. Vasudeva & Co. submitted its report on 10.3.2016. In the report the aforesaid amount was divided into four parts as it evident from the table prepared by the Chartered Accountant which is as follows:-

S.No.	Description	Expense type	currency	amount in INR
Section-1	Salary payments for the months July 2015 to February 2016	overdue staff salary	INR	86,64,020
Section-2	Vendor payments	Overdue Vender payments	GBP/EUR/INR	1,37,66,556
Section-3	Statutory Dues -TDS	statutory Dues	INR	7,13,991
Section-4	CLB Audit – Valuation Engagement fees	CLB Audit fees	INR	1,71,750
	Total			2,33,16,317

In respect section 1, 3 & 4 Kaul Group- non applicant readily agreed to sign the cheque jointly and the controversy has already been put to rest. However the controversy remained unresolved in respect of section 2 item 'Vendor Payments'. The Chartered Accountant in para 11(b) showed their reluctance to make recommendation for release of the Vender Payments'. The opinion of the Chartered Accountant in para 11(b) reads as under:-

(b) With regard to the item of expenditure listed in Section 2 (Refer paragraph 7], we are unable to comment upon the same. Accordingly, the Hon'ble Court may decide whether given the facts as stated above, whether it would be in the fitness of things to release payment in respect of item of expenditure referred to in section 2.

This application has been filed for issuance of an order directing non applicant respondents to sign the cheque jointly for release of amount payable as 'Vendor Payments' (Supra). The application has been heard on various occasions. Affidavits and counter affidavits have also been filed.

I have heard learned counsel for the parties at length. Both the learned counsel have argued with vehemence. However the matter lies in a narrow compass and the parties have virtually reached a consensus which would be evident from the succeeding para.

The basic arguments raised by non applicant-respondent (Kaul Group) against the applicant-petitioner in respect of their claim for 'Vendor Payments' is that the amount of 50% of the 'Vendor Due' is required to be paid by BEL and the applicant-petitioner and non applicant respondent have agreed to make a joint request to BEL for release of the amount and for depositing the same in the SBI account of the company. The SBI is obviously obliged in turn to release the payment to company vendor- Moog Fernau without any objection from the non applicant-respondents (Kaul Group). The aforesaid course which the parties have agreed to follow must be preceded by an appropriate application before, and an order by Hon'ble High Court of Delhi which is seized of this issue in CS(OS)1915/2015(Kuldeep Kant & Ors v. Nand Lal Bhatia & ors.) in those proceedings certain interim orders have already been issued with regard to letter of credit (LC) on 8.7.2015, 31.8.2015, 14.9.2015, 1.10.2015 and 18.11.2015.

The BEL is required to pay a sum of GBP 975813.00 to Petitioner No.4 in the bank account at SBI Dubai branch. Out of the aforesaid amount, a sum of GBP 369123.05 is required to be paid to the Vender Company Moog Fernau.


AT

Both the parties have thus agreed that a joint application shall be filed before the Delhi High court to this effect for passing of appropriate order within a week from today.

With the aforesaid observations CA No. 136/C-1/2016 stands disposed of.

Main case:

To come for hearing on 27/7/2016 at 10.30 am.


(CHIEF JUSTICE M.M. KUMAR) 24.05.2016
CHAIRMAN

Dated: 16.5.2016
24.5.2016

Received copy
for Salwa
for Refinements.
25/5/16