

MENTIONING

COMPANY LAW BOARD
NEW DELHI BENCH
NEW DELHI

CP NO. 56(ND)/2016

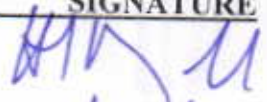
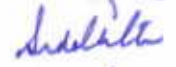

CA NO.

PRESENT: CHIEF JUSTICE M. M. KUMAR
CHAIRMAN

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NEW DELHI BENCH OF THE
COMPANY LAW BOARD ON 26.04.2016

NAME OF THE COMPANY: **M/s. Affordable Exports**
Vs.
M/s. Apparel Export Promotions Council & Ors.

SECTION OF THE COMPANIES ACT: 397, 398 the Companies Act 1956.

S.NO.	NAME	DESIGNATION	REPRESENTATION	SIGNATURE
1.	KRISHNAJI VENUGOPAL	Sp. Adv.	AEPC	
2.	SIDDHARTHA	Adv.)	
3.	SHIVENDRA SINGH	Adv.	<u>ORDER</u> (1)	

Petition mentioned.

The matter has been heard at some length.

2. Ld. counsel for the petitioner has applied for various interim reliefs including a stay order against non-paying members from voting until their dues are cleared; restrain order against Respondent No.1 from passing any resolution to transfer any funds to any third party or benefit any member personally in any manner including foreign visits at the cost of Respondent No.1 without leave of Company Law Board; to appoint a Local Commissioner to verify and authenticate the books of account of the

P.T.O.

respondent No.1 company; direction to Respondent No.2 to 34 to furnish the details of their movable and immovable assets and to restrain them from selling, disposing, alienating, encumbering, transferring or mortgaging any of their movable and immovable assets till the disposal of the case; and direct Respondent No.41 to appoint an interim Administrator from the Central Government to function as C.E.O. of Respondent No.1 company. It has been pointed out that special permission has been granted by Ministry of Corporate Affairs under section 399(4) of the Companies Act, 1956 for filing petition before C.L.B. with a finding that there is a *prima facie* case with regard to oppression and mismanagement. In para 6 the Ministry of Corporate Affairs has noticed that there is sufficient material on record indicating various instances of financial irregularities in respect of Respondent No.1 which may be prejudicial to its interest. It has also been *prima facie* shown that there is mismanagement and siphoning of funds and the Ministry has deliberately refrained from expressing any opinion on merits of the case for obvious reasons.

3. Ld. counsel for the petitioner has pointed out that a sum of Rs. 14 crores has been advanced to the Institute of Apparel Management (IAM), Gurgaon which is not recognized by AITE/UGC nor any permission has been taken from H.U.D.A. These documents have been placed on record at pages 180, 181 and 182 of the paper book. Likewise, it has been pointed out that a sum of Rs. 50 lacs (Rupees fifty lacs) each has been given to Skill Council and another organization. There are further instances reported which are not necessary to be noticed in details at this motion stage.


4. Ld counsel for the Respondent has pointed out that non-paying members are never permitted to vote unless their dues are cleared. It has been pointed out that grant of any interim order stopping the members to visit foreign countries for promotion of various products would adversely affect the interest of the company and stultify its objects. Likewise it has been pointed out that restraint order cannot be issued to Respondent No.2 to 34 in respect of their individual capacity.

However, a statement has been made by the ld. counsel for Respondent No.1 that no alienation or transfer of immovable assets or properties would be effected without permission of this Board from today onwards. With regard to appointment of a C.E.O./Secretary General, ld. counsel for Respondent No.1 has stated that such a person is appointed by adopting the procedure as provided under the Articles of Association of the Company. Presently an I.A.S. Officer from Kerala Cadre is in position although he is in the process of being repatriated to his parent cadre. Thereafter, procedure for appointment of new incumbent shall be followed.

5. Ld. counsel for the Respondent seeks four weeks time to file reply. Let the reply be filed within four weeks with a copy in advance to the counsel for the petitioner. Rejoinder, if any, be filed within two weeks thereafter with a copy in advance to the counsel opposite.

6. No one has appeared on behalf of Respondent No.2 to 41.

7. List for further consideration on 14.07.2016 at 10.30 AM. The Respondent No.1 shall be bound by the statement made on its behalf.


[CHIEF JUSTICE M.M. KUMAR]
CHAIRMAN

Date: 26.04.2016
[ravi]