

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
COMPANY APPEAL (AT) NO.268/2024

In the matter of:

Lakhan Goenka & Anr

Appellant

Vs

Cardin Health Care Pvt Ltd & Ors

Respondent

For Appellant: Mr Yashraj Singh Deor Sr., Mr Keith Varghese, Advocates.

For Respondent: Mr Dhruvit Shah, Mr Kiran Shah, Advocates Respondents No.1 to 6.

Mr Rustam Singh, Ms Farah Naaz, Mr. Hasmat Nabi, Advocates for R7.

With

COMPANY APPEAL (AT) NO.269/2024

In the matter of:

Lakhan Goenka & Anr

Appellant

Vs

Cardin Health Care Pvt Ltd & Ors

Respondent

For Appellant: Mr Yashraj Singh Deor Sr., Mr Keith Varghese, Advocates.

For Respondent: Mr Dhruvit Shah, Mr Kiran Shah, Advocates Respondents No.1 to 6.

Mr Rustam Singh, Ms Farah Naaz, Mr. Hasmat Nabi, Advocates for R7.

with

COMPANY APPEAL (AT) NO.297/2024

In the matter of:

Lakhan Goenka & Anr

Appellant

Vs

Cardin Health Care Pvt Ltd & Ors

Respondent

For Appellant: Mr Yashraj Singh Deor Sr., Mr Keith Varghese, Advocates.

For Respondent: Mr Dhruvit Shah, Mr Kiran Shah, Advocates Respondents No.1 to 6.

Mr Rustam Singh, Ms Farah Naaz, Mr. Hasmat Nabi, Advocates for R7.

With

COMPANY APPEAL (AT) NO.298/2024

In the matter of:

Lakhan Goenka & Anr

Appellant

Vs

Cardin Health Care Pvt Ltd & Ors

Respondent

For Appellant: Mr Yashraj Singh Deor Sr., Mr Keith Varghese, Advocates.

For Respondent: Mr Dhruvit Shah, Mr Kiran Shah, Advocates Respondents No.1 to 6.

Mr Rustam Singh, Ms Farah Naaz, Mr. Hasmat Nabi, Advocates for R7.

ORDER

HYBRID MODE

15.05.2026: The Company Appeal (AT) No.268/2024 is filed against an impugned order dated 30.07.2024 wherein the Ld. NCLT dismissed IA No.21/2023 in Company Petition No.31/2020.

2, The brief facts of the case are as under:-

- a)** The Respondent No.1 company was incorporated on 24.04.2003 and was involved in the business of manufacturing wheat flour and allied agricultural based products;
- b)** In the year 2006, the Respondent No.2 invested in Respondent No.1 company and in return Respondent No.2 and his family members were given 60% shareholding in Respondent No.1 company. Subsequently Respondent No.2 was appointed as a director of Respondent No.1 company and Appellant No.2 had resigned as director;
- c)** on 08.10.2018, Respondent No.3 the son of Respondent No.2 was also appointed as a director of Respondent No.1 company with an alleged intention to take over the company. The Respondent even forced Appellant No.1 to resign as a director on 24.06.2020;

- d)** between 04.03.2020 to 28.08.2020 the Respondent No.2 issued notices for convening Board Meetings on 06.03.2020 wherein the agenda was to increase the authorised share capital of the company. The Appellant No.1 objected to increase in the authorised share capital of the company as the production activity of the company was under utilized and thus on 14.09.2020 the appellant preferred a Company Petition No.31/2020 under Section 241-242 of the Companies Act, 2013 for oppression and mismanagement *qua* illegal appointment of directors and increase in the authorised capital;
- e)** at the time of filing the petition the appellants were holding 40% of the shares of Respondent No.1 company;
- f)** subsequent to the filing of the Company Petition, the Respondents started diluting shareholding of the appellants by raising capital on purported grounds of business expansion but using the money to pay themselves and with the actual sole malafide intention of bringing appellant's shareholding below 25% and eventually sell Respondent No.1 company.
- g)** amendment applications were moved to bring on record the subsequent acts of illegal reduction of appellants' shareholding and also filed a stay application to seek stay on the letter of offer diluting the shareholding of appellants;
- h)** *qua* the first letter of offer, an IA No.8/2021 was filed and *qua* the second letter of offer of issue of shares and for third letter of offer, IA

No.25/2021 and IA No.22/2023 were filed. After diluting the shareholding of appellant below 25% the Respondent *vide* notice dated 18.03.2023 decided to convene an EOGM on 18.04.2023 for passing special resolution for selling of the assets, land and building of Respondent No.1. IA No.21/2023 in Company Petition was thus filed for stay on the holding of EOGM dated 18.04.2023 and for restraining the Respondents from disposing of the assets of the company;

i) the said IA No.21/2023 was, however, dismissed by the Ld. NCLT holding an equal opportunity was given to the appellants herein to subscribe to further issues of share capital and the company as well as the Respondents have duly given the reasons for increase in the share capital. It was further held the Respondent No.1 is a closely held company and though there are differences between the parties but the EOGM was validly called with a relevant notice period for more than 21 days was given as per law and there was no illegality in it and accordingly the said IA No.21/2023 was dismissed.

3, We have also perused the record and we adhere to the impugned order passed by the Ld. NCLT. However, *qua* the grievance of the appellants that during the pendency of the company petition the Respondents may not dispose of the assets, we note we have already passed an order dated 26.05.2025 directing *status quo* on the sale of assets of the company.

4. Thus though we dismiss this Company Appeal (AT) No.268/2024 finding no illegality in the impugned order but we are of the considered view since the purport of increase in the share capital is being challenged as malafide in the company petition, hence until a decision in the Company Petition No.31/2020, the *status quo* as was granted by us on 26.05.2025 shall continue.

5. That three other appeals are also filed *viz* Company Appeal (AT) No.269/2024 whereby IA No.25/2021 seeking interim stay on the implementation of letters of offer dated 23.07.2021 and dated 22.10.2021 was also dismissed on the ground the issues raised in these IAs were very much covered in IA No.21/2023, hence no further orders needs to be passed.

6. Further Company Appeal (AT) No.297/2024 is filed wherein IA No.8/2021 seeking amendment of company petition by bringing on record the grounds and prayer *qua* the allotment of new shares *vide* letter of offer dated 07.10.2020 and 23.07.2021 was also dismissed on similar grounds *viz* IA No.21/2023 is since disposed of, hence no further interference is required.

7. Similarly, Company Appeal (AT) No.298/2024 is filed to challenge the impugned order whereby IA No.22/2023 seeking amendment of company petition to bringing on record the grounds and prayer *qua* quashing of letter of offer dated 22.10.2021 was also dismissed with similar reasons *viz.* IA No.21/2023 stands disposed of and no further adjudication is required.

8. What we understand from the arguments is *vide* IA No.8/2021 and IA No.22/2023 the appellants were seeking amendment of company petition to

bring on record the grounds and prayer *qua* allotment of new shares *vide* letters of offer dated 07.10.2020 and 23.07.2021 as also 22.10.2021 and further interim stay on the implementation of the letter of offer dated 23.07.2021 and 22.10.2021.

9. The issues raised in IA No.8/2021, 25/2021 and 22/2023 were pertaining to the incidents prior to the issues raised in IA No.21/2023 and thus ought to have been dealt with separately by reasoned order(s). Thus while disposing of all these four appeals, we direct the IAs No.25/2021, 8/2021 and 22/2023 be heard afresh and be disposed of on merits after hearing the arguments from both sides.

10. All the appeals are thus disposed of in terms of above.

11. Pending applications in all appeals are also disposed of.

(Justice Yogesh Khanna)
Member (Judicial)

(Mr. Indevar Pandey)
Member (Technical)

Bm/rr