Appellant Vs. Respondent

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SooperKanoon Citation : sooperkanoon.com/1137528

Court : Kolkata

Decided On : Apr-11-2014

Judge : Nadira Patherya

Appellant : Appellant

Respondent : Respondent

Judgement :

ORDER
SHEET CP No.637 of 2013 IN THE HIGH COURT AT CALCUTTA Original Jurisdiction IN THE MATTER OF : EMRALD COMMERCIAL LIMITED AND ORS.BEFORE: The Hon'ble JUSTICE PATHERYA Date : 11th April, 2014.

Mr.K.K.

Thaker, Mr.A.K.

Upadhyay for the applicants.

Mr.Raj Sekhar Basu for the Central Government.

Mr.Aniruddha Mitra for the State.

The Court : Although State of West Bengal has been put on notice by the Central Government and it seeks to intervene in this proceeding, the State has no interest and even if there be any interest of the State, such is to be protected by the Central Government.

The Central Government cannot shift its responsibility on to the State of West Bengal.

Therefore, the only opposing respondent would be the Central Government and none other.

An opposition has been filed by the Central Government and in the said affidavit two objections have been raised.

The fiRs.objection raised is in respect of the return of allotment filed by the transferor companies wherein it has been stated that the shares which were allotted in October, 2010 at a premium of Rs.490/- were allotted for consideration other than cash.

As the return of allotment is silent with regard to the asset, therefore, this objection was raised.

In reply to the said opposition documents have been annexed between the transferor companies and M/S.Mukesh Commercial PVT.Ltd., M/S.Rise High TraCo.PVT.Ltd., M/S.Confident Financial Advisory PVT.Ltd., M/S.Mangalam Viniyog PVT.Ltd., M/S.Subhlabh Tradevin PVT.Ltd., M/S.Vaibhavlaxmi Vanijya PVT.LTD.and M/S.Jasmine Merchants PVT.LTD.wherefrom it appears that the transferor companies have allotted their shares to M/S.Mukesh Commercial PVT.Ltd., M/S.Rise High TraCo.PVT.Ltd., M/S.Confident Financial Advisory PVT.Ltd., M/S.Mangalam Viniyog PVT.Ltd., M/S.Subhlabh Tradevin PVT.Ltd., M/S.Vaibhavlaxmi Vanijya PVT.LTD.and M/S.Jasmine Merchants PVT.LTD.for purchase of equity shares of companies mentioned in the said agreement.

This was placed at the meeting of the shareholders and the said has been approved by a majority.

It is only after such approval that this application has been filed for sanction of the scheme.

The shares have been allotted, may be at a premium of Rs.490/-, this allotment was in 2010 and no shareholder has raised an objection in respect thereof.

The Central Government today i.e.in 2014 cannot raise this objection as it is nowhere stated that it came to know of the said transaction in 2014 for the fiRs.time.

Accordingly, the fiRs.objection raised is overruled.

As regards the second objection there has been compliance by the transferor companies by filing statutory returns and return of allotment on 12th March, 2014.

Therefore, this objection has already been addressed by the applicants herein.

In view of the aforesaid there will be an order in terms of prayers (a) to (k) of the petition.

In the event the petitioners supply a legible computerized print out of the scheme and the schedule of assets in acceptable form to the department, the department will append such computerized print out, upon verification, to the certified copy of the order without insisting on a handwritten copy thereof.

In view of the aforesaid C.P.637 of 2013 is disposed of.

Let cost of 200 GMs be paid by the applicants to the Central Government.

Urgent certified photocopy of this order be supplied to the parties, if applied for, upon compliance of all requisite formalities.

(PATHERYA, J.) pa