

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO 185 OF 2024

Hitesh Chhaganlal Ambalia & Anr

... Appellants

Versus

Ashwin Khushaldas Banker & Ors

... Respondents

ORDER

- 1 The appeal arises from an order of the National Company Law Appellate Tribunal¹ dated 14 December 2023.
- 2 The appellants instituted a petition before the National Company Law Tribunal² under Sections 241 and 242 of the Companies Act 2013 alleging operation and mis-management.
- 3 By its order dated 13 November 2020, the NCLT allowed the petition and issued the following directions :
 - “(1) EOGM held on 18.12.2019 is declared illegal. Resolution passed for removal of the Petitioner no. 1 from Respondent No.1 Company is also declared illegal, null and void.
 - (2) The position of Director of the Petitioner no. 1 in Respondent no. 1 Company is restored from the date of his removal from such post.
 - (3) The bank account of the Company will be jointly operated wherein one person from the Petitioners ' side and

1 “NCLAT”

2 “NCLT”

one person from Respondents no. 2 and 3 would be signatories.

- (4) Certified copies of this order be filed with the concerned Registrar of Companies within 30 days from the date of this order.”

- 4 An appeal was filed before the NCLAT against the order of the NCLT.
- 5 After recording the submissions, the NCLAT noted that the decision of this Court in **TATA Consultancy Services Limited Vs Cyrus Investments Private Limited & Ors**³ was delivered after the order of the NCLT. Thereafter, the NCLAT extracted from the judgment in **Tata Consultancy Services Limited**. Having done so, it remanded the proceedings back to the NCLT. The NCLAT held that the NCLT will have to reexamine the original petition in light of the judgment of this Court in **TATA Consultancy Services Limited**.
- 6 We find merit in the submission which has been urged on behalf of the appellant that the order of the NCLAT remanding the proceedings back to the NCLT is unsustainable. The judgment of this Court in **TATA Consultancy Services Limited** (supra) was rendered after the decision of the NCLT. It was for the NCLAT to examine the impact, if any, that the judgment would have on the controversy between the parties. Simply remanding the matter to the NCLT without examining the facts and without analysing the extent of the application of the decision in **TATA Consultancy Services Limited** to the facts at hand would amount to an abdication of the appellate jurisdiction of the NCLAT.
- 7 We accordingly allow the appeal and set aside the impugned judgment dated 14 December 2023 of the NCLAT.

3 (2021) 9 SCC 449

- 8 Company Appeal No 233 of 2020 is restored to the file of NCLAT for fresh examination.
- 9 We clarify that all the rights and contentions of the parties are left open.
- 10 Pending applications, if any, stand disposed of.

.....CJI.
[Dr Dhananjaya Y Chandrachud]

.....J.
[J B Pardiwala]

.....J.
[Manoj Misra]

New Delhi;
April 05, 2024
GKA

ITEM NO.31

COURT NO.1

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 185/2024

HITESH CHHAGANLAL AMBALIA & ANR.

Appellant(s)

VERSUS

ASHWIN KHUSHALDAS BANKER & ORS.

Respondent(s)

(IA No.4853/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT
and IA No.4855/2024-EX-PARTE STAY IA No. 9069/2024 - PERMISSION TO
FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 05-04-2024 These matters were called on for hearing today.

CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE MANOJ MISRA

For Appellant(s) Mr. Navin Pahwa, Adv.
Mr. Siddharth Garg, Adv.
Ms. Devanshi Singh, Adv.
Mr. Himanshu Chaubey, AOR
Mr. Srijan Sinha, Adv.
Ms. Pallavi Aggarwal, Adv.

For Respondent(s) Mr. Aniruddha Deshmukh, AOR

Mr. K.M Nataraj, A.S.G.
Mr. Adarsh Pandey, Adv.
Mr. Saurav Roy, Adv.
Mr. Sharath Nambiar, Adv.
Mr. Raman Yadav, Adv.

**Mrs. Satvika Thakur, Adv.
Mr. Amrish Kumar, AOR**

**UPON hearing the counsel the Court made the following
O R D E R**

- 1 The Appeal is allowed in terms of the signed order.
- 2 Pending applications, if any, stand disposed of.

**(GULSHAN KUMAR ARORA)
AR-CUM-PS**

(Signed order is placed on the file)

**(SAROJ KUMARI GAUR)
ASSISTANT REGISTRAR**