

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
AT CHENNAI

(APPELLATE JURISDICTION)

Company Appeal (AT) (CH) No. 02 / 2026

(IA No. 59 / 2026)

In the matter of:

Mrs. Duan Hongli

W/o. Mr. Pengtau National of Republic of China,

Londongpozu,

Lianhencun, Huangjueya,

Nanan District, Chongqing, China – 400060

.... Appellant No. 1

Mr. Ansari Faiyaz S/o. Nizamuddin

Flat No. 1101, C-wing,

Dudhwala Complex,

292 Bellasis Road,

Mumbai -400008.

India.

.... Appellant No. 2

V

Al-Sami Agro Products Private Limited,

Plot No. E-16,17 & 18 Industrial Estate,

Dowaleswaram, East Godavari District,

State of Andhra Pradesh-533125.

.... Respondent No. 1

Mr. Abdul Salam S/o. Sheik Ismail

Director of,

Al-Sami Agro Products Private Limited,

Plot No. E-16,17 & 18 Industrial Estate,

Dowaleswaram, East Godavari District,

State of Andhra Pradesh-533125.

.... Respondent No. 2

Smt. Ajimunnisa Begum W/o. Abdul Salam

Director of,

Al-Sami Agro Products Private Limited,

D. No. 45-1-13/1, Gorakshanapeta,

Rajahmundry -533103.

East Godavari District,

State of Andhra Pradesh.

.... Respondent No. 3

Md. Abdullah S/o. Abdul Salam
Occupation: Director,
Al-Sami Agro Products Private Limited,
Plot No. E-16,17 & 18 Industrial Estate,
Dowaleswaram, East Godavari District,
State of Andhra Pradesh-533125.

.... Respondent No. 4

Smt. Shaik Chandini W/o. Md. Abdullah
Occupation: Director,
Al-Sami Agro Products Private Limited,
D. No. 45-1-13/1, Gorakshanapeta,
Rajahmundry -533103.
East Godavari District,
State of Andhra Pradesh.

.... Respondent No. 5

Mr. Shaik Khareem S/o. Janna Sha
Chief General Manager,
Al-Sami Agro Products Private Limited,
Plot No. E-16,17 & 18 Industrial Estate,
Dowaleswaram, East Godavari District,
State of Andhra Pradesh-533125.

.... Respondent No. 6

Ms. M.L.S. Nandini,
Finance Manager,
Al-Sami Agro Products Private Limited,
Plot No. E-16,17 & 18 Industrial Estate.
Dowaleswaram, East Godavari District,
State of Andhra Pradesh-533125.

.... Respondent No. 7

Present :

For Appellants : Mr. Yahya Batatawala, Advocate
Ms. Tehseen Fatima Khatri, PCS
For Respondents : Mr. PH. Arvindh Pandian, Senior Advocate
For Mr. Amrith Bhargav, Mr. Jerin Asher Sojan &
Mr. KM. Ashif, Advocates

ORDER
(Hybrid Mode)

12.02.2026:

Oral Judgment: Justice Sharad Kumar Sharma, Member (Judicial):

This Company Appeal engages consideration of a very trifling legal issue, though, it might be having a very wide ramifications so far as the rights of the parties to the proceedings are concerned. It is the settled law, in the light of the spirit of the provisions contained under Order I Rule 9 and Order I Rule 10 (2) to be read with Order I Rule 13 of CPC that the rights of the parties to the proceedings, to get their disputed rights adjudicated by way of a lis, as envisaged under law, is constitutionally protected under Article 21 of Constitution of India and that it should not be closed on hyper-technical grounds, whatsoever the earlier derelictions might have been there on part of the Appellant, in not diligently participating before Ld. NCLT in the proceedings of the Company Petition, which has been instituted as back as on 2019.

2. After various phases of proceedings, the Learned Tribunal has come to a conclusion that, in the Company Petition, being TCP/124/241/AMR/2019, the principle relief sought by the Appellant, was as against M/s. Al-Sami Food Exports Pvt. Ltd., who was not made as a party to the Company Petition itself, that at this belated stage when the Company Petition has already reached to the stage of arguments, the said rectification sought in form of addition of a party as prayed for by Appellants may not be permitted and the Company Petition ought to be dismissed on account of non-joinder of necessary parties and accordingly

dismissed the Company Petition. As against this order, the Appellant is before this Appellate Tribunal.

3. The governing principles under law, so far it relates to the proceedings carried on under the provisions of the Companies Act, 2013 before the Tribunals constituted under the Companies Act are that these proceedings as contemplated under the provisions of the Companies Act, 2013 shall not be bound by the procedures contemplated under the Code of Civil Procedure and are to be guided by the principles of natural justice, in light of the provisions of Section 424 of Companies Act. Owing to the aforesaid, the responsibility has also been cast upon the Tribunals to ensure at the initial stage of proceedings itself that the adjudication is carried on between the rightful parties and on merits of the matter, rather than on the technicalities such as that of the non-joinder of the necessary parties. Past conduct of litigant in a judicial proceedings should not be taken into consideration, particularly when the Tribunals are deciding the rights and that is why the law contained under sub-rule 2 of Rule 10 of Order 1 of CPC, has given leverage to the court's itself to strike out or add a party to the proceedings for an effective adjudication of a lis.

4. Without venturing into the merits of the matter in-depth and particularly the finding which has been recorded therein, though we are in agreement with the observation made by the Learned Tribunal in the impugned order dismissing the Company Petition due to the non-joinder of necessary

parties, we are of the view that exclusively in the interest of justice and particularly in context of what has been observed by us in the light of Article 21 of the Constitution of India, the Appellant should have been granted an opportunity, to carry out necessary amendment in the cause title of the Company Petition pending before Learned Tribunal, qua the persons to be impleaded as the parties, as against whom he has sought the relief in the principle Company Petition.

5. Learned Counsel for the Respondents submitted that, during the proceedings of TCP/124/241/AMR/2019 before the Tribunal the right of the Respondent to file counter had been forfeited by Ld. Tribunal owing delay on his part, that he had challenged the same before this Appellate tribunal by filing Company Appeal (AT) (CH) No. 147/2025 and that, later on the said Appeal was dismissed as withdrawn on 06.11.2025 owing to the subsequent developments in the proceedings of the Company Petition and that, now it may adversely affect his rights if the company petition proceedings is carried after addition of the parties in the cause title of the company petition.

6. Since, we have to balance the equities and ensure that effective opportunity is provided to all the parties for enabling the lis to be decided on merits and more particularly owing to the amendment, which has been permitted by us to be carried, by adding the party to the proceedings, we make it clear that the decision taken in the earlier Company Appeal (AT) (CH) No. 147/2025, will

not in any way create an impediment for the right of the Respondents to file their counter to the Company Petition, after the necessary amendment is carried by the Appellant, as directed by the today's order.

7. Subject to the aforesaid, the Impugned Order would stand modified to the extent that, the Appellant is granted permission to carry out the amendment by impleading the necessary party, **M/s. Al-Sami Food Exports Pvt Ltd**, non-joinder of whom has resulted in the dismissal of the company petition itself. The necessary amendment is to be carried out by the Appellant, within a period of two weeks from today. It is hoped and trusted that, both the parties to the Company Appeal would be effectively participating in the proceedings under Company Petition. Looking to the age of the Company Petition itself, a request is made to the Tribunal to make endeavours to decide the Company Petition as expeditiously as possible. Subject to above, the Company Appeal stands disposed of.

[Justice Sharad Kumar Sharma]
Member (Judicial)

[Jatindranath Swain]
Member (Technical)

YS/MS/AK