



IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH  
COURT - IV

I.A. No. 178 of 2023

IN

C.P. No. 1631/MB/2019

*[Application under Rule 11 of NCLT Rules,  
2016.]*

In the matter of:

Tirupati Sankalp Realtors Private Limited

...Applicant

In the matter of

Tirupati Sankalp Realtors Private Limited

...Petitioner

V/s.

1. Ruhi Realty Private Limited
2. Sharan P. Khanna
3. Tapin S. Khanna
4. Sharan P Khanna HUF
5. Ghansham Pahlajani
6. Rama Pahiajani
7. Gilbert Investment Private  
Limited
8. Jaldhara Investment and Trading
9. Nitisha Avinash Chande

...Respondents

Pronounced: 23.02.2026

**CORAM:**

SHRI ANIL RAJ CHELLAN  
HON'BLE MEMBER (TECHNICAL)

SHRI K. R. SAJI KUMAR  
HON'BLE MEMBER (JUDICIAL)



**Appearances** : **Hybrid**

For Applicant : Adv. Shrey Fatcerpekar a/w Adv.  
Pooja Bimal Mehta.

For Respondent Nos. 1 to 4 : Adv. Nausher Kohli a/w Adv. Raveena  
and R-7 to R-9)) Kinkhabwala, Adv. Vidyashree Peria  
i/b Kanga & Company.

For Respondent Nos. 5 & 6 : Adv. Ayush Rajani a/w Adv. Mitali  
Bhatt i/b AKR Legal

### **ORDER**

**Per: Anil Raj Chellan, Member (Technical)**

1. The present Application has been filed by the Applicant (Original Petitioner) seeking to amend the Company Petition C.P. No. 1631/MB/2019.
2. **Brief facts of the case:**
  - 2.1. The Company Petition is filed under Sections 241-242 of the Companies Act, 2013 (Act), by Mr. Rajesh Shah, the authorised signatory and Director of the Applicant Company, seeking redressal in the matter of alleged gross Oppression and Mismanagement in the affairs of the 1<sup>st</sup> Respondent at the hands of the other Respondents.
  - 2.2. The Applicant/Petitioner states that the Applicant owns and holds 1,000 equity shares of the face value of Rs. 10/- each of the 1<sup>st</sup> Respondent, which constitutes 10 per cent of the issued, subscribed, and paid-up equity share capital of the 1<sup>st</sup> Respondent. However, its shareholding is erroneously recorded as 500 shares only. Further, the Petitioner has never received any notice of any General Meeting of the 1<sup>st</sup> Respondent, which is managed by the other Respondents.



2.3. The Petitioner, therefore, filed Company Petition No. 1631 of 2019 against Respondent Nos. 1 to 9 and claiming the following, amongst other Main Reliefs—

(a) *That the 2<sup>nd</sup> to 9<sup>th</sup> Respondents, their respective servants, agents and assigns be ordered and directed to make a full, free and complete disclosure of all the records of 1<sup>st</sup> Respondent to the Petitioner and/or its representatives, nominees and/or chartered accountants, of the records, books, papers and vouchers of 1<sup>st</sup> Respondent with regard to its affairs, including inter alia:*

*(i) All Registers maintained by the company, (ii) Register of Members, (iii) Register of directors and key managerial personnel, (iv) Register of charges, (v) Register of Transfer of Shares records, (vi) Minute Books of Board Meetings and Annual General Body Meetings, (vii) Audited Balance Sheets with Auditors' Report from 2009-10 to 2017-18, (viii) Bank Statements from 2009 till date, (ix) Tally Back-up Data, (x) Attendance registers (i) Proxy register, (xii) Extracts of Board Resolution relating to the transfer of Shares, (xiii) Directors Register and their shareholdings, (xiv) Annual Report since Incorporation, (xv) Annual Returns, (xvi) Unaudited Balance Sheet for 2018-19.*

(b) *That the Respondents be directed to rectify the records of the 1<sup>st</sup> Respondent to reflect the correct shareholding of the Petitioner i.e., 10% of the total paid up share capital of the 1<sup>st</sup> Respondent;*

(c) *That this Hon'ble Tribunal be pleased to direct that the Annual Returns filed on behalf of the 1<sup>st</sup> Respondent which record the Petitioner's shareholding incorrectly are null and void to that extent and carry out necessary corrections to the Annual Returns to reflect the correct shareholding position for public view including filing necessary application under section 131 of the Act;*

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- (d) *That consequentially this Hon'ble Tribunal be pleased to direct the Respondent to rectify the Annual Returns already filed or file fresh returns recording the Petitioner's shareholding correctly;*
- (e) *That the Respondents be directed to conduct the affairs of the 1<sup>st</sup> Respondent in accordance with its Articles of Association and other statutory provisions"*

2.4. On 12.09.2023, the Applicant filed this Application bearing IA No. 178 of 2023 under Rule 11 of the National Company Law Tribunal Rules, 2016 (NCLT Rules), seeking to allow the Applicant/Petitioner and to incorporate the following amendments to the Company Petition-

*" After paragraph 35 of the Petition, add the following paragraphs*

*=*

*35A. After filing the present Petition, the Respondents have now provided the Petitioner with inspection of certain records maintained by the 1<sup>st</sup> Respondent. The Petitioner has been provided inspection of the following documents:*

- a. Original Register of Members of Ruhi Realty Pvt.*
- b. Original Register of Directors of Ruhi Realty Pvt. Ltd.*
- c. Original Register containing the Minutes of Meeting of AGM of Ruhi Realty Pvt. Ltd.*
- d. Unsigned copies of the Balance sheet of Ruhi Realty Pvt. Ltd.*

*After the aforesaid inspection, under the cover of a letter dated 12<sup>th</sup> November 2019 the Advocates for the 1<sup>st</sup> Respondent sent copies of the documents provided by the 1<sup>st</sup> Respondent to the Petitioner's representatives for inspection on 4<sup>th</sup> November 2019, to the Petitioner's Advocates. The Petitioner craves leave to refer and rely upon copies of*



*the documents received by the Petitioner from 1<sup>st</sup> Respondent on completion of the inspection.*

*35B. From a perusal of the copies of Register of Members as purportedly maintained by the 1<sup>st</sup> Respondent, it is clear that the said Register of members is not maintained in accordance with the provisions of the Companies (Management and Administration) Rules 2014 as amended from time to time. It is also clear that the Petitioner's shareholding is incorrectly recorded as 500 shares only, whereas the Petitioner holds 1000 shares in the 1<sup>st</sup> Respondent.*

*35C. In addition, even the transfer of 500 shares so recorded in the Register of Members does not bear material particulars such as the distinctive numbers of the shares transferred, share certificate number, share transfer number and the folio number. Neither are the entries confirmed by the Director as mandated under the prescribed form. It is pertinent to note that no Register of Members which was to be maintained by the Respondent No. 1 as per the provisions of Companies Act 1956 was offered for inspection. This shows that the transfer of shares so recorded is erroneous and was probably so recorded by the Respondents belatedly. It is pertinent to note that post taking inspection the Petitioner made further inquiries and it appears that the Annual Returns for the year 2008-09, 2009-10 and 2010-11 were uploaded on the official website of the MCA only in the month of September 2011.*

*35D. It is also pertinent that the Petitioner has only been provided with inspection and copies of Minutes of Meetings of 1<sup>st</sup> Respondent's Annual General Meetings for the years 2014-2015 to 2017-2018 only. It is pertinent that in the 1<sup>st</sup> Respondent's records available on the official website of the Ministry of Corporate Affairs, it is recorded that 1<sup>st</sup> Respondent's Annual General Meetings for the years 2014-2015 to 2017-18 were attended by 7 to 8 members. However, from a perusal of the minutes of the Annual General Meetings for the years 2014-15 to 2017-18*



*provided to the Petitioner, it appears that only 2nd and 3rd Respondents attended the said AGMs. Further, admittedly no notice was ever given to the 1<sup>st</sup> Respondent's shareholders in accordance with the provisions of the Companies Act 2013 as well as Companies Act 1956 and the Rules framed thereunder. Accordingly, the Petitioner or the other shareholders never received the 1<sup>st</sup> Respondent's financial statements and annual returns, despite being entitled to the same.*

*35E. From the copies of the 1<sup>st</sup> Respondent's financial statements provided to the Petitioner, it appears that the 5<sup>th</sup> Respondent was appointed as an additional director of the 1<sup>st</sup> Respondent sometime in the year 2015. The same appears to be nothing but an attempt to camouflage the loans received by the 1<sup>st</sup> Respondent from the 5<sup>th</sup> and 6<sup>th</sup> Respondents prior to 2015 as loans received from a Director and his relative. This is because such loans would otherwise be prohibited under the Companies (Acceptance of Deposits) Rules, 2013 and Companies Act, 2013.*

*35F. Further, from a perusal of Form No. MGT-7 filed by the 1<sup>st</sup> Respondent for the year 2014-15, it is clear that the 5<sup>th</sup> Respondent was appointed as an Additional Director of the 1<sup>st</sup> Respondent. However, the 5<sup>th</sup> Respondent's name does not appear in the Register of Directors and Key Managerial Personnel and their shareholding maintained by the 1<sup>st</sup> Respondent.*

*35G. Further, from a perusal of the 1<sup>st</sup> Respondent's records available on the official website of the MCA, it appears that the 9<sup>th</sup> Respondent resigned as a director of the 1<sup>st</sup> Respondent in March 2015 but the same has not been recorded in the Register of Directors.*

*35H. It is also pertinent that the 2<sup>nd</sup> Respondent was disqualified under Section 164(2) and ceased to be a director of the 1<sup>st</sup> Respondent with effect from 1st November 2016 and the same is also not recorded in the Register of Directors. It is also pertinent to note that the 9<sup>th</sup> Respondent*



*appears to have been appointed as a Director of the Respondent No. 1 company only on 5<sup>th</sup> December 2017, whereas in the annual returns filed with the Ministry of Corporate Affairs, it is stated that she has attended 4 board meetings held during the financial year 2016-17. The same would result in a situation where there is only one validly appointed director of the 1<sup>st</sup> Respondent. The same is contrary to the 1<sup>st</sup> Respondent's Articles of Association. In any event, I submit that the appointment of the 9<sup>th</sup> Respondent as a director of the 1<sup>st</sup> Respondent is bad in law. Post 1<sup>st</sup> November 2016 i.e. the date on which the 2<sup>nd</sup> Respondent ceased being a director of the 1<sup>st</sup> Respondent, the 3<sup>rd</sup> Respondent was the only remaining director. Accordingly, for appointment of an additional director to ensure that there are two directors on the Board, the 3<sup>rd</sup> Respondent was required to call for an Extra Ordinary General Meeting of the 1<sup>st</sup> Respondent's members, including the Petitioner. Admittedly no such meeting has been called for as per the 1<sup>st</sup> Respondent's own records. It is also stated in the Director's report for the financial year 2017-18, that the 2<sup>nd</sup> Respondent ceased to be the Director on 5<sup>th</sup> December 2017, which is factually incorrect, and that the 9<sup>th</sup> Respondent was appointed on the same day as a Director. In view of the aforesaid, the Applicant respectfully submit that all board meetings held since 1<sup>st</sup> November 2016 till date are bad in law and all the resolutions passed therein are also not valid.*

*35l. From a perusal of the 1<sup>st</sup> Respondent's Balance Sheet for the period ending 31<sup>st</sup> March 2019 (for which an extension of filing period was sought by 1<sup>st</sup> Respondent), it appears that the 3<sup>rd</sup> Respondent's loan to the extent of Rs. 30,00,000- has been repaid by the 1<sup>st</sup> Respondent from the funds received from the Builder from whom the 1<sup>st</sup> Respondent has purchased the Flat No. 4401 in World Villa, West Wing, World One Tower. This fact is recorded in the Auditors Report dated 31<sup>st</sup> October 2019 under Note No. 2.3 to notes to financial statement. The Petitioner craves leave to refer and rely upon a copy of the 1<sup>st</sup> Respondent's Notice of AGM dated 18<sup>th</sup> December 2019 along with Balance Sheet and Auditors Report."*



2. After paragraph 38 of the Petition, add the following paragraphs

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38A. From the facts set out above, it is evident that the affairs of the 1<sup>st</sup> Respondent are being grossly mismanaged. Records of the 1<sup>st</sup> Respondent are not being maintained as required under law. No meetings are being held. Annual Meetings for which no notices were ever issued are being represented as being held. Shareholders' presence in such meetings is being falsely recorded. The entire record produced before this Hon'ble Tribunal demonstrates that 2<sup>nd</sup> to 4<sup>th</sup> Respondent and the 9<sup>th</sup> Respondent are operating the 1<sup>st</sup> Respondent as their personal business with scant regard for the law and rights of the other members of the 1<sup>st</sup> Respondent.

38B. Financial affairs of the 1<sup>st</sup> Respondent are also being operated in an arbitrary and prejudicial manner. The amount received by 1<sup>st</sup> Respondent from the builder/developer has been appropriated only for one member's benefit without obtaining any consent from the remaining members. It is submitted that this fact by itself demonstrates the mismanagement in the 1<sup>st</sup> Respondent's affairs and the oppressive manner in which the same are being conducted.

38C. The above facts also demonstrate that directors have not been validly appointed and a director despite being disqualified under Section 164 of the Companies Act, 2013 has continued acting as a director. The same cannot and ought not to be countenanced by this Hon'ble Tribunal. It would thus be necessary and in the interest of justice for this Hon'ble Tribunal to pass appropriate orders in this regard.

3. Under the heading '**VIII. RELIEFS SOUGHT**' and sub-heading '**MAIN RELIEFS**', add the following prayers after prayer clause (d) –



*(d)(i) For appropriate orders, reliefs and directions under Section(s) 241 and 242 of the Companies Act, 2013 to bring to an end to the aforesaid acts of oppression and mismanagement perpetrated by Respondent Nos. 2 to 4 and 9 and for necessary orders and reliefs in respect thereof, including as prayer for herein;*

*(d)(ii) that this Hon'ble Tribunal be pleased to direct Respondent Nos. 2 to 4 and 9 to render true, full, proper and complete explanations and accounts of all their dealings with and use of Respondent No. 1's assets and funds;*

*(d)(iii) that this Hon'ble Tribunal be pleased to constitute a Board of Directors and appoint a Chairman for management of Respondent No. 1;*

*(d)(iv) that this Hon'ble Tribunal be pleased to appoint a Company Secretary, as defined under Section 2 of the Company Secretaries Act, 1980, for conducting an audit of the secretarial and related records of the Respondent No. 1.*

*4. Any consequential amendments, if necessary.”*

### **3. Submissions of Applicant**

- 3.1. Due to the Respondents' refusal to grant inspection of the records pertaining to Respondent No. 1, despite numerous requests, the Petitioner included a request for such inspection as prayer Clause (a) in the Company Petition. Following the submission of the Company Petition, Respondent Nos. 2 to 4 offered the Petitioner an opportunity to inspect the records of Respondent No. 1 on or about November 4, 2019. Consequently, the Petitioner became aware of the significant mismanagement concerning the affairs of Respondent No.1.
- 3.2. On 04.12.2019, the Applicant filed another Company Petition, bearing Company Petition No. 4470 of 2019, to this Tribunal. In this Company



Petition, the Applicant seeks, among other reliefs, an order directing the Respondents to amend the records of Respondent No.1 to accurately reflect the shareholding of the Applicant/Petitioner, which constitutes 10 percent of the total paid share capital of Respondent No. 1.

- 3.3. It is submitted that both the Company Petitions were being heard by this Tribunal on a regular basis. During the course of these hearings, the Tribunal made oral observations indicating that the averments in the Applicant's Affidavit in Rejoinder would be considered without requiring formal amendments to this Company Petition, and all parties proceeded on this basis. However, the Respondents are now taking advantage of the change in the Bench's constitution to raise objections regarding maintainability of the case, citing lack of formal amendments, despite having participated in the proceedings without such objections. This situation has necessitated the filing of this Amendment Application.
- 3.4. The Applicant asserts that the proposed amendments are based on the information made available to the Applicant/Petitioner by the Respondents subsequent to the filing of the present Company Petition. No new or additional material is sought to be produced or introduced by the Applicant at this stage.
- 3.5. It is submitted that the proposed amendment is well within the period of limitation prescribed under the law of limitation. It would be just, necessary expedient, and in the interest of justice, that the Applicant be permitted to amend the Company Petition.

#### **4. Submissions of Respondents**

- 4.1. While the Respondent Nos. 1 to 4 and 7 to 9 are represented, Respondent No. 3 alone filed his affidavit in reply dated 18.08.2023, raising various objections.



- 4.2. It is contended that this Application is barred by limitation. The Petitioner has annexed the Annual Returns of the Respondent No. 1 Company for the Financial Year 2008-09. Further, the Annual Returns of Respondent No. 1 are public documents, and the Petitioner is deemed to have constructive knowledge of the said documents. As admitted by the Applicant, the Annual Returns of the Respondent No. 1 Company were uploaded on the website of the Ministry of Corporate Affairs (MCA) in the month of September 2011. Therefore, the averments of the Petitioner that it got access to the records of the Respondent No. 1 Company only after the inspection of the records of the Respondent No. 1 Company are not correct. Even if it is assumed that the inspection only provided the information to the Applicant, still, the Application is time-barred as the inspection was done on 04.11.2019.
- 4.3. The Petitioner seeks to amend the Company Petition at this belated stage, when the pleadings in the matter are completed, and the arguments have commenced for final hearing of the Petition; therefore, there is an inordinate and explained delay on the part of the Petitioner in filing the present Petition. The Petitioner has failed to provide any cogent reason for the delay in filing the present Petition.
- 4.4. It is contended that the Petitioner seeks to change the nature of the Petition, which, although filed under Sections 241-242 of the Act, is sought to be a Petition for the rectification of records of the Respondent No. 1, which is governed by Sections 58-59 of the Act. It is asserted that certain reliefs sought in the Petition are identical to those sought in the Company Petition No. 4470 of 2019, which was also filed by the Petitioner under Sections 58-59 of the Act. Consequently, the Petitioner has initiated multiple proceedings seeking identical reliefs from this Tribunal. Thus, the Petitioner is attempting to change the nature of the Petition by adding new reliefs that are not ancillary to those originally sought in the Petition.



4.5. It is submitted that the Petitioner has falsely contended that this Tribunal orally indicated to consider the averments made in the Petitioner's Affidavit in Rejoinder and that there was no necessity for a formal amendment of the Company Petition. Thus, the present Application is yet another attempt by the Petitioner to make incorrect statements with *mala fide* intention to mislead this Tribunal.

4.6. The Respondents, therefore, seek dismissal of the Application.

**5. Analysis and Findings**

5.1. We have heard the Ld. Counsel for the Applicant and Respondents, and perused the documents on record.

5.2. It is a matter of record that the Respondent No. 1 Company, incorporated on 19.09.1997, is engaged, *inter alia*, in the business of acquiring, developing, and selling properties.

5.3. The Company Petition is filed by the Applicant/Petitioner alleging oppression and mismanagement in the affairs of Respondent No.1 by incorrectly reflecting the shareholding of the Applicant/Petitioner in the Respondent No. 1 Company and other alleged oppressive acts, such as the failure to issue notices of General Meetings to the Petitioner. One of the reliefs sought in the Company Petition is to give access/inspection of the records maintained by the Respondent No. 1 Company. After filing the Company Petition, the Petitioner was given access to the records on 04.11.2019. Subsequently, the Petitioner filed another Company Petition bearing No. 4470 of 2019 to seek relief for rectification of records of the Respondent No. 1 as regards the shareholding of the Petitioner in the Respondent No.1 Company. Nevertheless, the Applicant/Petitioner has filed this Application for the purpose of amending the Company Petition.

5.4. The case of the Applicant is that the inspection of the records belonging to Respondent No. 1, conducted on 04.11.2019, unveiled certain new facts



that, though stated in the Affidavit in Rejoinder, are required to be formally brought in the Company Petition. The Applicant does not seek to introduce any new or additional material. It is a generally accepted principle that the courts must ordinarily allow an application for amendment that may be necessary to determine the real question in controversy between the parties. Furthermore, an interim application for such an amendment should not be rejected solely on the grounds of delay or laches on the part of the Applicant in filing such an application.

- 5.5. Conversely, the Respondents argue that the application has been filed at a belated stage of final arguments. It is submitted that the provisions of Article 113 of the Limitation Act, 1963, which stipulate the period of limitation as three years, are applicable to the proceedings filed before the National Company Law Tribunal under Sections 241 and 242 of the Companies Act, 2013. The Respondents contend that the information stated to have been accessed by the Application was available from public documents, and thus it is incorrect to claim that the Applicant became aware of these facts only through the inspection conducted on 04.11.2019. Moreover, even if it is assumed that the date of inspection is the date of information, the application is still time-barred.
- 5.6. A coordinate bench of NCLT at Ahmedabad in *E.Rama Rao v. Gandhidham Developers Private Limited & Anr.* (2017 SCC OnLine NCLT 15007) observed as under:

*“20. No period of limitation is provided in Section 59 of the Companies Act, 2013. But section 433 of the Companies Act says that the provisions of the Limitation Act, 1963 shall, as far as may be, apply to proceedings or appeals before the Tribunal or the Appellate Tribunal, as the case may be. The Hon'ble Supreme Court in the case of Kerala State Electricity Board v. T.P. Kunjali, (1976) 4 SCC 634 SC 282 held that Article 137 of Limitation Act, 1963 will apply to any petition or application under any act to a*

*Civil Court. Therefore, Article 137 of the Limitation Act, 1963 is applicable to a petition or appeal filed under Section 59 of the Companies Act, 2013 before this Tribunal.”*

- 5.7 The Hon'ble NCLAT in the case of *Messrs. Esquire Electronics Inc. & Anr. v. Netherlands India Communications Enterprises Limited & Ors.* [2017 SCC Online NCLAT 48] has, *inter alia*, concurred that the provisions of Article 113 of the Limitation Act, 1963, prescribing the period of limitation as three years would be applicable to the proceedings filed before the NCLT under Section 241 and 242 of the Companies Act, 2013.
- 5.8 In the present case, it is undisputed that Article 137 of the Limitation Act, 1963, is applicable to this Application. However, the Applicant's case is that he became aware of these facts only through the inspection conducted on 04.11.2019 and thereafter filed this Application for amendment on 31.07.2023. It is a matter of record that from 15.03.2020 to 28.02.2022, the limitation period was suspended/excluded in view of the orders passed by the Hon'ble Supreme Court on account of the COVID-19 pandemic. Thus, this Application is well within the three-year period from the date of inspection. However, the Respondents contend that Rule 155 of the NCLT Rules prescribes a period of 30 days from the date of completion of the pleadings for filing amendment applications; however, this Application was filed belatedly, after the pleadings were completed and arguments had commenced for the final hearing of the Petition. In support of the above argument, the Respondents have relied on the order of the coordinate Bench of NCLT at Ahmedabad in the matter of *Mr. Ganpatbhai Kanjibhai Patel v. M/s. Saibaba Surfactants Private Limited & Ors* (2017 SCC OnLine NCLT 11825).
- 5.9 It is pertinent to notice that Rule 155 of the NCLT Rules deals with the general power to amend, and this Rule does not limit the Tribunal's inherent powers to allow amendments, in the interest of justice, even after the period specified in the NCLT Rules. In this regard, we may usefully



refer to the judgement of the Hon'ble Supreme Court in *Life Insurance Corporation of India v. Sanjeev Builders Private Limited and Another* (2022 SCC OnLine SC 1128), which held as under:

*“19. It is well settled that the court must be extremely liberal in granting the prayer for amendment, if the court is of the view that if such amendment is not allowed, a party, who has prayed for such an amendment, shall suffer irreparable loss and injury. It is also equally well settled that there is no absolute rule that in every case where a relief is barred because of limitation, amendment should not be allowed. It is always open to the court to allow an amendment if it is of the view that allowing of an amendment shall really sub-serve the ultimate cause of justice and avoid further litigation. ....”*

5.10 The Hon'ble Supreme Court has repeatedly held that the power to allow an amendment is undoubtedly wide and may be appropriately exercised at any stage in the interests of justice, notwithstanding the law of limitation. In *Ganga Bai v. Vijay Kumar* (1974) 2 SCC 393, it was held thus:

*“22..... The power to allow an amendment is undoubtedly wide and may at any stage be appropriately exercised in the interest of justice, the law of limitation notwithstanding. But the exercise of such far-reaching discretionary powers is governed by judicial considerations and wider the discretion, greater ought to be the care and circumspection on the part of the Court.....”*. Further, the Hon'ble Supreme Court in *Andhra Bank v. ABN Amro Bank N. V and Ors.* [(2001) 6 SCC 1675], *inter alia*, held that delay cannot be a ground for refusal of amendment.

5.11 Another contention raised by the Respondents is that this Application has been filed to set up an entirely new case. Since the amendment is in the



nature of an afterthought, the same ought not to be permitted by the Hon'ble Tribunal.

- 5.12 On the contrary, the Applicant contends that the Applicant is neither setting up a new case nor an afterthought, which is evident from the averments made in the Affidavit in Rejoinder.
- 5.13 One of the cardinal principles of law is that courts and tribunals must be extremely liberal in granting the prayer for amendment if it is of the view that allowing an amendment shall really serve the ultimate cause of justice. In the present case, the proposed amendments are stated to be necessitated on account of the information made available to the Applicant subsequent to the filing of the present Company Petition, though the Respondents contend that the information is publicly accessible, suggesting the Applicant has deemed knowledge of this information even at the time of filing of the Company Petition. Be that as it may, we find it unnecessary to go into the correctness or falsity of this ground for the purpose of considering the proposed amendment. Furthermore, it is observed that the Applicant had included a prayer to rectify the records of the 1<sup>st</sup> Respondent to reflect the correct shareholding of the Petitioner as 10% of the total paid up share capital of the 1<sup>st</sup> Respondent. Thus, the proposed amendments do not, in our view, change the basic structure of the proceedings, and it is necessary for the purpose of determining the real controversy between the parties, as the entire issue revolves around the shareholding of the Applicant.
- 5.14 In view of the above discussion, we come to the conclusion that the proposed amendments are to be allowed for determining the real question in controversy between the parties and to avoid multiplicity of proceedings. Further, the proposed amendments will cause no prejudice to the Respondents. The Applicant is, therefore, permitted to carry out the amendments proposed in this Application within two weeks from the date of this Order and serve the amended copy of the Petition on the

IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH, COURT - IV

I.A. No. 178 of 2023  
IN  
C.P. No. 1631/MB/2019

Respondents. The Respondents are given time of two weeks after the service of the amended Petition to file reply/additional reply to the extent and corresponding to the Applicant's amendment.

5.15 Accordingly, **IA.No.178 of 2023 is allowed and disposed of.**

**Sd/-**

**SHRI ANIL RAJ CHELLAN**  
**MEMBER (TECHNICAL)**

**Sd/-**

**SHRI K. R. SAJI KUMAR**  
**MEMBER (JUDICIAL)**