

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

COMPANY APPEAL (AT) NO.134/2026

In the matter of:

Vijay Data ` Appellant

Vs

Data Ingenious Global Ltd & Ors. Respondent

For Appellant: Mr. Narendra M Sharma, Ms Sahana S Narayana, Advocates.

For Respondent: Mr Shiv Mangal Sharma, Mr. Abhishek Sharma, Advocates.

ORDER

HYBRID MODE

23.04.2026: This appeal is filed by the appellant against an impugned order dated 12.03.2026 passed by the Ld. NCLT, Jaipur in CA No.3/JPR/2026 in CP No.53(ND)2009 whereby the Ld. NCLT had dismissed the appellant's application seeking recall of the order dated 19.02.2026 passed by the Ld. NCLT, Jaipur. It is submitted the appellant alongwith others have filed a company petition aggrieved by the acts of oppression and mismanagement by the Respondents herein before the Ld. Company Law Board seeking relief on account of alleged wrongful acts by Respondents No.1 to 8.

2. It is submitted the arguments of the appellant was concluded, but on 19.02.2026 the Ld. NCLT passed the following order: -

"Ld. Counsel for the Petitioner has partly advanced the arguments. Ld. counsel appearing on behalf of the Respondents' state that the respondents are ready and willing to resolve the issue by Medication. Let Mr. Babu Lal Data and

Mr. Vijay Data remain present in person on the next date of hearing for exploring the possibility of resolution. To come up for further consideration on 26.02.2026.”

3. The appellant filed an application for recall of order dated 19.02.2026 alleging earlier too the efforts were made to resolve the matter amicably in mediation but the Respondents did not come forward and in one of such cases between the parties *viz.* Company Appeal No.1/2015 titled as Saurabh Agrotech Pvt Ltd & Ors Vs Vijay Solvex Limited and Ors, a cost of Rs.2 lakh was imposed upon the Respondents because of their unwarranted delay tactics.

4. It is submitted even otherwise, the consent of the appellant was required to send the matter to mediation *per* Rupa & Co Ltd and Anr Vs Firhad Hakim and Others, 2025 INSC 245 wherein it was held by the Hon'ble Supreme Court *the mediation cannot be thrust upon either of the parties and consent of the parties is required.* It is submitted despite noting the judgement stated above, and also while noting earlier too the efforts were made to settle the disputes amicably by different courts at different times, the disputes could not be resolved and thus as this petition is pending since 2009, and as the appellants have concluded their arguments; sending the matter again to mediation would be a futile exercise and hence be not initiated. It is further argued firstly the appellant have not given any consent for mediation and secondly as *per* Afcons Infrastructure Ltd V Cherian Varkey Construction Co Pvt Ltd (2010) 8 SCC 24 wherein the Hon'ble Supreme Court has held if a judge is doing settlement negotiation and he fails then he should not deal with the adjudication of the matter to avoid apprehension on bias, it is submitted there is only one Bench at

Jaipur and if presiding Judge enters into mediation himself then the case would have to be transferred to another Bench.

5. In any case at this stage, what we gather from the impugned order is the impugned order is passed *per* Section 442(2) of the Companies Act, 2013 which gives the suo moto power to the Ld. Tribunal to refer the matter for mediation.

6. In its impugned order, the Ld. NCLT noted *the parties are related to each other; the petition is pending since 2009; there are multiple litigations before the High Court as well as Hon'ble Supreme Court and further that the appellant No.1 had expired during the pendency of the proceedings*, and in these circumstances the presence of the parties was sought to explore the possibility of settlement and in no manner prejudices the rights of the parties. The impugned order does not disclose the Ld. NCLT has actually referred the matter to mediation. It is simply to call the parties so as to explore the possibility of settlement, if any, due to reasons aforesaid and it cannot be said to be beyond jurisdiction; thus it requires no interference. However, in case the Ld.NCLT decides to refer the matter to mediation, then principles enshrined in the Mediation Act; the law laid down in Rupa and Company (Supra) and other judgements referred to by the appellant in his recall application, may be looked into.

7. Considering the fact the Ld. NCLT is trying to settle the disputes amicably, hence to maintain cordial atmosphere, we waive the cost of Rs.25000/- imposed upon the appellant herein. To this extent the impugned order stands modified.

8. With these observations the appeal stands disposed of.

9. Pending applications being IA No.2631, 2786, 2787 of 2026 are also disposed of.

(Justice Yogesh Khanna)
Member (Judicial)

(Mr. Ajai Das Mehrotra)
Member (Technical)

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