IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH (COURT– I) CHENNAI

ATTENDANCE CUM ORDER SHEET OF THE HEARING
HELD ON **08.07.2026** THROUGH VIDEO CONFERENCING

PRESENT: **HON'BLE SHRI. SANJIV JAIN, MEMBER (JUDICIAL)**
HON'BLE SHRI. VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

IN THE MATTER OF **:** S Ravindhra Reddy & 6 Ors
Vs
Silver Line Retreat Hotels Pvt Ltd & 12 Ors

MAIN PETITION NUMBER **:** CP(CA)/3(CHE)/2023

(IA/MA) APPLICATION NUMBERS

IA(CA)/119(CHE)/2023; IA(CA)/123(CHE)/2025

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APPLICATION NUMBER	**:**
PETITION NUMBER	**:** CP/22(CHE)/2023
NAME OF THE PETITIONER(S)	**:** A Vijayan and 7 Othes
NAME OF THE RESPONDENTS	**:** Silver Line Retreat Hotels Pvt Ltd and 2 Others
UNDER SECTION	**:** Sec 241/242 of CA 2023

IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH (COURT– I) CHENNAI

ATTENDANCE CUM ORDER SHEET OF THE HEARING
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PRESENT: **HON'BLE SHRI. SANJIV JAIN, MEMBER (JUDICIAL)**
HON'BLE SHRI. VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

APPLICATION NUMBER	**:**
PETITION NUMBER	**:** CP/29(CHE)/2024
NAME OF THE PETITIONER(S)	**:** A Vijayan and 8 Othes
NAME OF THE RESPONDENTS	**:** Silver Line Retreat Hotels Pvt Ltd and 7 Others
UNDER SECTION	**:** Sec 213(a)(i) R/w Sec 221 & 447 of CA, 2013

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302. CP(CA)/3(CHE)/2023
IA(CA)/119(CHE)/2023; IA(CA)/123(CHE)/2025
303. CP/22(CHE)/2023
304. CP/29(CHE)/2024

ORDER

Present: Ld. Counsel Shri. Pawan Jhabakh for the Petitioners in CP/3/2023, Applicant in IA(CA)/119(CHE)/2023 and IA(CA)/123(CHE)/2025 and Respondents in CP/22/2023 and CP/29/2024.

None for the other parties.

Vide common order pronounced in Open court, CP/29/2024 is dismissed.

CP/3/2023 and CP/22/2023 are disposed of with following directions.

(i) The Form DIR-12 filed by Respondents No.2 and 3 (Petitioner in CP/3/2023) recording cessation of the directors representing the majority shareholders is declared invalid and is hereby set aside.

(ii) The directors whose names were removed pursuant to the aforesaid filing shall stand restored to their respective positions on the Board of Directors of the Company.

(iii) All consequential actions taken solely on the basis of the impugned DIR-12 filing shall stand annulled.

(iv) The Board of Directors of the Company shall thereafter function with representation from both shareholder groups so as to ensure transparency, accountability and balanced management of the affairs of the Company.

(v) All directors shall be entitled to inspect and access the statutory registers, books of account, financial records, contracts and other records of the Company in accordance with law.

(vi) Any major decision involving alienation, transfer, sale, lease, mortgage, encumbrance or creation of third-party rights over the principal assets of the Company shall be undertaken only after approval of the Board and in accordance with the provisions of the Companies Act, 2013.

(vii) The prayer seeking appointment of a Forensic Auditor is rejected.

(viii) The Company shall be managed by the Directors in accordance with the provisions of the Companies Act, 2013 and the directions contained herein.

(ix) In view of the relationship between the parties and the nature of the disputes involved, there shall be no order as to costs.

Application IA(CA)/119(CHE)/2023 is dismissed.

Application IA(CA)/123(CHE)/2025 is disposed of with directions.

Any interim order, if pending, stands vacated. All connected applications, if any, shall stand closed.

Files be consigned to records.

Sd/-	**Sd/-**
(VENKATARAMAN SUBRAMANIAM)	**(SANJIV JAIN)**
MEMBER (TECHNICAL)	MEMBER (JUDICIAL)

MG

Date: 08.07.2026

IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH - I, CHENNAI

CP(CA)/3(CHE)/2023
And
IA(CA)/119(CHE)/2023

(Filed under Section 241 and 242 of the Companies Act, 2013)

In the matter of Silver Line Retreat Hotels Private Limited

1. **S. RAVINDHRA REDDY**
   No.4, Shreyas Enclave,
   Sheshadripuram 1st Main Road,
   Velacherry, Chennai-600042

2. **D. BALAJI**
   No-117, PS Sivasamy salai,
   Mylapore, Chennai-600004.

3. **R. KANAGAVALLI**
   No.4, Shreyas Enclave,
   Sheshadripuram 1st Main Road,
   Velacherry, Chennai-600042

4. **NIVETHA A R**
   No.4, Shreyas Enclave,
   Sheshadripuram 1st Main Road,
   Velacherry, Chennai-600042.

5. **B. MEENA**
   No-117, PS Sivasamy salai,
   Mylapore, Chennai-600004.

6. **KANTHIMATHI KASIVISWANATHAN**
   No-3, Manthraday Apartment,
   Sastri street, Sreenivasa Nagar,
   Koyambedu, Chennai-600107.

7. **RAJAM SHEELA**
20/1/6-E, Sri Graha 7th Cross,
Maravanberi, Hasthampatti,
Salem – 636007

… Petitioners

-Versus-

1. **SILVER LINE RETREAT HOTELS PRIVATE LIMITED**
Registered office at No.61, Poonamallee Road,
2nd Floor, Ekkattuthangal, Chennai – 600032.

2. **A. VIJAYAN**
No.14/A-1, Swamy Nagar, Salem Road,
Namakkal, Tamilnadu - 637001.

3. **M. BHARATHI DEVI**
4/252, Dhevi Illam, East Coast Road,
Neelankarai, Tamilnadu - 600115.

4. **G. ANBARASI**
9/218, Veetukadu, Thethukkadu (post),
Uthiragadikaval, Malaveepankuttai,
Namakkal, Tamilnadu - 637404.

5. **R. GANESAN**
6/3, Chinna Kalangani,
Namakkal, Tamilnadu - 637014.

6. **ANITHA SUBBARAYALU**
4A, Aura Flats, 4th floor,
MIG 1&2, Vallal pari street,
NH1, Maraimalai nagar, Tamilnadu - 603209.

7. **K. SELVARAJ**
86/1, A.S. Pet Main Road,
Namakkal, Tamilnadu - 637001.

8. **R. LALITHA**
14, 5th cross, Akhila Nagar,
Periyar Nagar Extention,
Thiruvanai Koil, Trichy-620006.

9. **S. CHINNASAMY**
National Associate, No-39C,
Rasi complex, Namakkal-637001.

10. **I. KRISHNA SWAMY**
No;22, 1st Cross Street, Padmavathy Nagar,
Madambakkam, Chennai – 603202

… Respondents

Along with

CP(CA)/22(CHE)/2023

And

IA(CA)/123(CHE)/2025

(Filed under Section 241 and 242 of the Companies Act, 2013)

In the matter of Silver Line Retreat Hotels Private Limited

1. **A. VIJAYAN**
No.14/A-1, Swamy Nagar, Salem Road,
Namakkal, Tamilnadu - 637001.

2. **M. BHARATHI DEVI**
4/252, Dhevi Illam, East Coast Road,
Neelankarai, Tamilnadu - 600115.

3. **G. ANBARASI**
   9/218, Veetukadu, Thethukkadu (post),
   Uthiragadikaval, Malaveepankuttai,
   Namakkal, Tamilnadu - 637404.

4. **R. GANESAN**
   6/3, Chinna Kalangani,
   Namakkal, Tamilnadu - 637014.

5. **ANITHA SUBBARAYALU**
   4A, Aura Flats, 4^{th} floor,
   MIG 1&2, Vallal pari street,
   NH1, Maraimalai nagar, Tamilnadu - 603209.

6. **K. SELVARAJ**
   86/1, A.S. Pet Main Road,
   Namakkal, Tamilnadu - 637001.

7. **R. LALITHA**
   14, 5th cross, Akhila Nagar,
   Periyar Nagar Extention,
   Thiruvanai Koil, Trichy-620006.

8. **S. CHINNASAMY**
   National Associate, No-39C,
   Rasi complex, Namakkal-637001.

… Petitioners

-Versus-

1. **SILVER LINE RETREAT HOTELS PRIVATE LIMITED**
   Registered office at No.61, Poonamallee Road,
   2nd Floor, Ekkattuthangal, Chennai – 600032.

2. **S. RAVINDHRA REDDY**
   No.4, Shreyas Enclave,
   Sheshadripuram 1st Main Road,
   Velacherry, Chennai-600042

3. **D. BALAJI**
   No-117, PS Sivasamy salai,
   Mylapore, Chennai-600004.

… Respondents

Along with

CP(CA)/29(CHE)/2024

(Filed under Section 213(a)(i) read with Sections 221 and 447 of the Companies Act, 2013)

In the matter of Silver Line Retreat Hotels Private Limited

1. **A. VIJAYAN**
   No.14/A-1, Swamy Nagar, Salem Road,
   Namakkal, Tamilnadu - 637001.

2. **M. BHARATHI DEVI**
   4/252, Dhevi Illam, East Coast Road,
   Neelankarai, Tamilnadu - 600115.

3. **G. ANBARASI**
   9/218, Veetukadu, Thethukkadu (post),
   Uthiragadikaval, Malaveepankuttai,
   Namakkal, Tamilnadu - 637404.

4. **R. GANESAN**
   6/3, Chinna Kalangani,
   Namakkal, Tamilnadu - 637014.

5. **ANITHA SUBBARAYALU**
   4A, Aura Flats, 4th Floor, MIG 1&2,
   Vallal Pari Street, NH1,
   Maraimalai Nagar, Tamilnadu - 603209.

6. **K. SELVARAJ**
   86/1, A.S. Pet Main Road,
   Namakkal, Tamilnadu - 637001.

7. **R. LALITHA**
   14, 5th Cross, Akhila Nagar,
   Periyar Nagar Extension,
   Thiruvanai Koil, Trichy - 620006.

8. **S. CHINNASAMY**
   National Associate, No.39C,
   Rasi Complex, Namakkal - 637001.

9. **I. KRISHNASWAMY**
   Plot No.22, 1st Cross Street, Padmavathi Nagar,
   Madambakkam, Kancheepuram - 600126.

… Petitioners

-Versus-

1. **SILVER LINE RETREAT HOTELS PRIVATE LIMITED**
   Registered office at No.61, Poonamallee Road,
   2nd Floor, Ekkattuthangal, Chennai - 600032.

2. **S. RAVINDHRA REDDY**
No.4, Shreyas Enclave, Sheshadripuram 1st Main Road,
Velacherry, Chennai - 600042.

3. **D. BALAJI**
No-117, PS Sivasamy Salai,
Mylapore, Chennai - 600004.

4. **GBSV & CO., CHARTERED ACCOUNTANTS**
30/19, Vyasar Street, No.1 Sathya Flat,
East Tambaram, Chennai- 600 059

5. **THE REGISTRAR OF COMPANIES, CHENNAI**
Block No.6, B Wing, 2nd Floor,
Shastri Bhawan 26, Haddows Road,
Chennai – 600 034

6. **THE REGIONAL DIRECTOR, SOUTHERN REGION**
5th Floor, Shastri Bhawan 26, Haddows Road,
Chennai – 600 034

7. **THE MINISTRY OF CORPORATE AFFAIRS**
A Wing, Shastri Bhawan, Rajendra Prasad Road,
New Delhi – 110 001

8. **THE DEPARTMENT OF INCOME TAX**
No. 121, M.G.Road, Nungabakkam,
Chennai – 600 034

… *Respondents*

For S. Ravindhra Reddy & Ors	: Pawan Jhabakh, Advocate K.M. Ashif, Advocate
For A. Vijayan & Ors	: K. Gaurav Kumar, Advocate Alpa Jain, PCS

<u>CORAM</u>:

SANJIV JAIN, MEMBER (JUDICIAL)
VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

Order Pronounced on ***08th July, 2026***

O R D E R

(Heard through Hybrid mode)

<u>CP(CA)/3(CHE)/2023</u>

The Company Petition No. 3 of 2023 has been filed under Sections 241 and 242 of the Companies Act, 2013, by the Petitioners, who are shareholders of the 1st Respondent Company, alleging acts of oppression and mismanagement in the affairs of the said Company by Respondents No. 2 to 10, seeking following reliefs;

(a) To declare that the complained acts of the Respondents are oppressive and prejudicial to the interest of the 1st Respondent Company and the Petitioners;

(b) To permanently restrain the Respondents from removing the 1st and 2nd Petitioners as Directors of the 1st Respondent Company;

(c) To set aside all the resolutions allegedly passed at the Board meeting held on 28/12/2022 as null and void;

(d) To set aside all the resolutions allegedly passed at the Board meeting held on 25/11/2022 as null and void;

(e) To direct the Respondents not to interfere in the day-to-day functions of the 1st Petitioner as Managing Director of the 1st Respondent Company;

(f) Appropriate reliefs be passed under and in accordance with sections 242 of the Companies Act, 2013;

(g) Order Costs of and incidental to this Petition be paid by the Respondents;

(h) Such further order or orders and/or direction or directions be given as to this Hon'ble Tribunal may deem fit and proper;

BRIEF FACTS

2. It is submitted that the 1st Respondent is a Private Limited Company incorporated on 2nd September 2010, engaged in the hospitality business, owning and managing a resort at Kolli Hills, Tamilnadu. It is submitted that Respondents No. 2 to 10 are shareholders of the 1st Respondent Company, collectively holding 46,09,800 equity shares, constituting 57.62% of the paid-up share capital, thereby forming the majority group. It is submitted that the 2nd Respondent is also a Director of the Company.

3. It is submitted that the 1st Petitioner, along with the 2nd Petitioner and Late Mr. R. Rajkumar, incorporated the 1st Respondent Company and were its first directors. It is submitted that the 1st Petitioner has been the Managing Director since the incorporation of the Company and has been instrumental in its growth, having identified the land for the resort, paid the initial advance from his personal funds, and single-handedly managed the entire construction from 2011 to 2015.

4. It is submitted that during the construction phase, the 1st Petitioner faced immense challenges, including labour issues, adverse

weather conditions, a major accident at the site resulting in his hospitalization for two months, and an Open-Heart surgery in 2013. It is submitted that despite these personal hardships and without any support from the other investors, the 1st Petitioner ensured the completion of the resort.

5. It is submitted that the 1st Petitioner also secured a term loan of Rs. 3.75 crores from Karur Vysya Bank by offering his and the 2nd Petitioner's personal residential properties as collateral security. It is submitted that the 1st Petitioner did not draw any remuneration for his services during the entire five-year construction period.

6. It is submitted that the business was running smoothly until the COVID-19 pandemic in March 2020. After that, Covid severely impacted the hospitality industry. It is submitted that during this crisis, the 1st Petitioner again mobilized funds from his own sources to meet fixed costs, employee salaries, and loan EMIs, as the Respondents offered no financial assistance.

7. It is submitted that the Respondents, taking advantage of the financial strain caused by the pandemic, changed their attitude and began making baseless allegations of mismanagement against the 1st Petitioner. It is submitted that in June 2022, the Respondents demanded an Extraordinary General Meeting (EGM) to consider the sale of the resort, which was the Company's sole asset. It is submitted that the Respondents, with their majority shareholding, coerced and compelled the 1st and 2nd Petitioners to appoint Respondents No. 3 to 7,

along with Petitioners No. 3, 6, and 7, as Additional Directors at a Board Meeting held on 15.07.2022. It is submitted that with this, the Board strength increased from 3 to 11, and the Respondents' group gained a majority of six directors on the Board.

8. It is submitted that after gaining a majority on the Board, the Respondents began interfering in the day-to-day affairs, disrupting the resort's functioning, with the sole objective of selling the Company's property. It is submitted that at a Board Meeting on 26.09.2022, the Respondents' group passed a resolution to sell the resort for Rs. 60.0 crores. It is submitted that the Respondents, being the majority on the Board, deliberately failed to convene the Annual General Meeting (AGM) for the financial year ended 31.03.2022 on or before 30.09.2022.

9. It is submitted that as per Section 161 of the Companies Act, 2013, an Additional Director holds office only up to the date of the next AGM or the last date on which the AGM should have been held, whichever is earlier. It is submitted that consequently, all 8 Additional Directors appointed on 15.07.2022, including Respondents No. 3 to 7, ceased to be directors by operation of law on 30.09.2022.

10. It is submitted that despite having ceased to be directors, the Respondents convened a Board Meeting on 25.11.2022. It is submitted that at this illegal meeting, attended and voted upon by the ceased directors, several oppressive resolutions were passed, including the appointment of the 3rd Respondent as Joint Managing Director, the formation of a "Purchase Committee" and a "Finance and Accounts

Committee," and the authorization for new bank signatories, effectively usurping the powers of the 1st Petitioner.

11. It is submitted that these resolutions are null and void as they were passed with the votes of persons who were no longer directors of the Company. As on 25.11.2022, the validly constituted Board comprised only of the 1st Petitioner, 2nd Petitioner, and 2nd Respondent. Since the 1st and 2nd Petitioners voted against the resolutions, they were never validly passed. It is submitted that the 1st Petitioner, in compliance with the law, filed Form DIR-12 with the Registrar of Companies to record the cessation of the 8 Additional Directors.

12. It is submitted that in a further act of oppression, the 2nd Respondent issued a notice for a Board Meeting on 28.12.2022 and a notice for an EGM on 23.01.2023 with the primary agenda of removing the 1st and 2nd Petitioners as Directors under Section 169 of the Act. It is submitted that the notice for the Board Meeting was sent to the ceased directors and the meeting itself lacked a quorum, rendering any decision taken therein invalid. The subsequent notice for the EGM is, therefore, also illegal and a nullity.

13. It is submitted that the Respondents No. 2, 5, and 9 have also indulged in mismanagement by making parallel bookings for the resort and collecting monies from customers without Board approval, thereby siphoning off the Company's funds and damaging its reputation. It is submitted that these acts are harsh, burdensome, and wrongful, aimed at illegally ousting the founding directors, taking

complete control of the Company, and selling its sole asset against the interests of the Company and the Petitioners.

<u>REPLY OF THE RESPONDENTS</u>

14. It is submitted that the petition is not maintainable as the allegations do not constitute oppression or mismanagement under Sections 241 and 242 of the Companies Act, 2013. It is submitted that the acts complained of do not affect the Petitioners in their capacity as members, but rather concern their directorial positions, for which a petition under Section 241 is not the appropriate remedy. It is submitted that the Petitioners have failed to establish a continuous course of conduct that is burdensome, harsh, and wrongful. It is submitted that isolated acts, even if proven, do not amount to oppression.

15. It is submitted that the Respondents, as majority shareholders holding 57.62% of the shares, have been compelled to intervene in the Company's affairs due to the gross mismanagement by the 1st and 2nd Petitioners, who had complete and unaccountable control since incorporation.

16. It is submitted that the 1st Petitioner raised capital from the Respondents for specific projects like a catering college and a rooftop restaurant, but diverted the funds without providing proper accounts. It is submitted that the sudden increase in unsecured loans from the 1st Petitioner and his family raised serious concerns about financial impropriety.

17. It is submitted that the Petitioners' version of the appointment of directors is false and misleading. It is submitted that at the EGM held on 27.06.2022, four of the Respondents (No. 3, 4, 5, and 7) were duly appointed as Directors by the shareholders, not as "Additional Directors". It is submitted that the 1st Petitioner, in a deceitful act, subsequently held a Board Meeting on 15.07.2022 and wrongfully designated them and four others as "Additional Directors" in Form DIR-12 to manipulate their tenure.

18. It is submitted that since these four Respondents were appointed as regular directors at an EGM, their directorship did not cease on 30.09.2022. Therefore, the Board Meeting held on 25.11.2022 was validly constituted, and the resolutions passed therein, including the appointment of a Joint Managing Director and the formation of committees, were legal and necessary to restore transparency and accountability.

19. It is submitted that the delay in holding the AGM for the year 2021-22 was solely due to the 1st Petitioner's failure to produce the books of accounts for the Board's approval. It is submitted that the 1st Petitioner fraudulently signed the financial statements on 01.09.2022, falsely claiming they were approved by the Board, when no such meeting was held. It is submitted that the filing of Form DIR-12 by the 1st Petitioner on 21.12.2022, showing the cessation of directors, was a fraudulent act done only after receiving a special notice on 16.12.2022 for his and the 2nd Petitioner's removal. It is submitted that a complaint

regarding this illegal filing has been made to the Registrar of Companies.

20. It is submitted that the Respondents, as directors, have a right to inspect the Company's records, but the 1st and 2nd Petitioners have consistently denied access, which constitutes mismanagement. It is submitted that the EGM convened on 23.01.2023 was a valid exercise of the shareholders' rights under Section 169 of the Act to remove the 1st and 2nd Petitioners, who had lost the confidence of the majority due to their mismanagement, non-cooperation, and illegal activities.

21. It is submitted that the Petitioners have filed this petition as a counter-blast to pre-empt their lawful removal from the Board and to continue their unaccountable control over the Company's affairs. The petition is an abuse of the process of law and ought to be dismissed.

REJOINDER FILED BY THE PETITIONER

22. It is submitted that the Respondents' claim that four directors were appointed at the EGM on 27.06.2022 is a blatant falsehood and an afterthought, contradicted by their own actions. It is submitted that the notice for the Board Meeting dated 28.12.2022 and the notice for the EGM dated 23.01.2023, both issued by the 2nd Respondent himself, contained agenda items for the appointment and regularization of the very same individuals (Respondents No. 3, 4, 5, and 7) as directors. It is submitted that if they were already appointed as regular directors on 27.06.2022, there would be no need to re-appoint them. This admission demolishes the Respondents' entire defence.

23. It is submitted that all 8 directors were appointed as Additional Directors under Section 161 at the Board Meeting of 15.07.2022, a meeting which the 2nd Respondent attended and voted in favour of. It is submitted that by operation of law, all 8, including those from the Petitioners' group, ceased to be directors on 30.09.2022.

24. It is submitted that the allegations of fund diversion are baseless, as all financial statements have been audited and approved by the shareholders, including the Respondents, at every AGM since inception. It is submitted that the statutory auditors were appointed with the consent and recommendation of the Respondents' group.

25. It is submitted that the Respondents' true motive has always been to sell the resort. It is submitted that after gaining a majority on the Board on 15.07.2022, their immediate action was not to improve business but to obtain a valuation report and pass a resolution to sell the property at the meeting on 26.09.2022. It is submitted that the attempt to remove the founding directors, who have toiled for years to build the Company from scratch and represent 39.20% of the shareholding, is a classic act of oppression by a brute majority, which is harsh, burdensome, and wrongful, warranting the intervention of this Tribunal.

CP(CA)/22(CHE)/2023

26. The Company Petition No. 22 of 2023 is filed by the Petitioners (Respondents in CP(CA)/3(CHE)/2023) as counter blast to Company Petition No. 3 of 2023. The Petitioners herein collectively hold approximately 57.62% of the paid-up share capital of the 1st Respondent Company, alleging acts of oppression and mismanagement in the affairs of the Company by the 2nd and 3rd Respondents, seeking reliefs as follows;

a. *To declare the complained acts of the Respondents as oppressive and prejudicial to the interest of the 1st Respondent Company and the Petitioners;*

b. *To direct the 2nd and 3rd Respondents not to interfere in the day-to-day functions of the 1st Respondent Company;*

c. *To appoint an Auditor to do forensic audit of accounts of the 1st Respondent Company as on date.*

d. *To declare the form DIR-12 dated 22-Dec-2022 filed by the 2nd Respondent for removal of the Petitioners along with others as oppressive and order for the appointment of the Petitioners and removal of Directors in the Board as per EGM dated 23-Jan-2023.*

e. *To set aside all acts deeds and things performed by the Respondents without the approval of Board and the members as the case may be, in respect of the 1st Respondent Company as invalid.*

f. *Order Costs of and incidental to this Petition be paid by the Respondents;*

g. *Such further order or orders and / or direction or directions be given as to this Hon'ble Tribunal may deem fit and proper;*

27. It is submitted that the 1st Respondent Company, Silver Line Retreat Hotels Private Limited, was incorporated on 02.09.2010 with the main object of carrying on hospitality business. The 2nd and 3rd Respondents, along with Late Mr. R. Rajkumar, were the promoters. The Petitioners are shareholders who invested substantial capital in the Company from the first allotment on 28.03.2011 and in subsequent allotments, and collectively hold a majority stake of 57.62% in the Company.

28. The Petitioners have alleged the following specific acts of oppression and mismanagement

28.1. **Financial Mismanagement and Diversion of Funds:** The 2nd Respondent raised capital for specific projects like building a catering college, a rooftop restaurant, and staff accommodation, but has failed to provide proper accounts for the same and has diverted the funds. There has been a sudden and unexplained increase in the loan amounts shown by the 2nd Respondent.

28.2. **Illegal Appointment and Removal of Directors:** In an Extra Ordinary General Meeting (EGM) held on 27.06.2022, Petitioners No. 2, 3, 4, and 6 were duly appointed as Directors by the shareholders. The 2nd Respondent, with *mala fide* intent, failed to file the requisite Form DIR-12 for their appointment.

Instead, in a subsequent Board Meeting on 15.07.2022, he wrongfully appointed the same individuals, along with others, as "Additional Directors" under Section 161 of the Act. This was a deliberate act to limit their tenure until the next Annual General Meeting (AGM). The 2nd Respondent then intentionally delayed the AGM for the financial year 2021-22, which was due by 30.09.2022, to ensure the automatic cessation of the office of these Additional Directors by operation of law. Subsequently, on 21.12.2022, the 2nd and 3rd Respondents filed Form DIR-12, illegally removing all newly appointed directors, falsely citing "vacancy of office u/s 161". This action was based on a purported Board Meeting on 21.12.2022, which was never convened, held without notice to any of the other directors, and lacked the requisite quorum of four directors.

28.3. **Fabrication of Financial Statements and Non-Compliance:** The 2nd Respondent circulated financial statements for FY 2021-22 which were signed by him and the 3rd Respondent, claiming they were approved at a Board Meeting on 01.09.2022. The Petitioners contend that no such meeting was ever held. When confronted at a Board Meeting on 25.11.2022, the 2nd Respondent admitted his fault. Despite this, the same false financial statements were circulated again with the notice for the AGM scheduled for 18.01.2023. The said financials contain incorrect figures, fail to disclose related party transactions, and do not present a true and fair view of the Company's affairs.

28.4. **Denial of Statutory Rights and Exclusion from Management:** The 1st Petitioner, a director since 2015, and the 5th Petitioner, while she was a director, were repeatedly denied their statutory right to inspect the books of accounts and other records of the Company, despite multiple written requests. The 2nd Respondent provided evasive and baseless excuses. The 2nd and 3rd Respondents have been managing the Company as their personal fiefdom, excluding the majority shareholders from any participation and failing to act upon resolutions passed in shareholder meetings.

28.5. **Filing of Pre-emptive Litigation:** The 2nd and 3rd Respondents filed CP No. 3 of 2023 before this Tribunal as a pre-emptive measure to thwart the Petitioners and protect themselves from scrutiny.

REPLY OF THE RESPONDENTS

29. It is submitted that this petition is not maintainable as it is a "counter-blast" to CP/3(CHE)/2023, which was filed by the Respondents against the oppressive acts of the Petitioners. The Petitioners, being majority shareholders, cannot claim oppression from the minority shareholders in management.

30. It is submitted that the resort at Kolli Hills was the "brainchild" of the 2nd Respondent, who single-handedly managed its conceptualization, land acquisition, and construction from 2010 to 2015, facing immense personal and financial hardship, including a major accident and open-heart surgery. The Petitioners invested much later and offered no support during the Company's most challenging times, particularly during the COVID-19 pandemic. The 2nd Respondent arranged for loans by offering his personal properties as collateral to save the Company.

31. It is submitted that no resolution was passed in the EGM of 27.06.2022 for the appointment of any director. The said meeting was convened solely to discuss the sale of the resort, an idea pushed by the Petitioners. It was at the Board Meeting of 15.07.2022 that Petitioners No. 2 to 6, along with three others from the Respondents' group, were appointed as "Additional Directors" under Section 161 of the Act, at the insistence of the Petitioners. It is submitted that as per Section 161, the tenure of these Additional Directors expired on 30.09.2022, being the last date on which the AGM for FY 2021-22 ought to have been held. The failure to hold the AGM was due to the non-cooperation of the Petitioners, who were in the majority on the Board at the time. Consequently, the cessation of these 8 directors was automatic by operation of law. The filing of Form DIR-12 on 21.12.2022 was a mere procedural compliance to update the records of the Registrar of Companies and was authorised by a validly held Board Meeting of the subsisting directors (P1, R2, and R3). Therefore, any Board Meeting

held after 30.09.2022 with the participation of the ceased directors, such as the one on 25.11.2022, was invalid, and its resolutions are null and void.

32. It is submitted that the financial statements of the Company have always been duly audited and approved by the shareholders, including the Petitioners, at every AGM without any objection. The Petitioners are now estopped from alleging past mismanagement. The Statutory Auditor of the Company from its incorporation until 2013-14 was the late husband of the 2nd Petitioner, who also served as a Financial Consultant until 2018-19. The allegations of mismanagement are therefore an afterthought.

33. It is submitted that the Petitioners' sole motive after gaining a majority on the Board was to sell the Company's only asset. The Petitioners began interfering in the day-to-day operations of the resort, making "parallel bookings" at lower prices, collecting money directly, and disrupting the smooth functioning of the business, which necessitated the filing of CP/3(CHE)/2023 by the Respondents. Under such circumstances, the Petitioner prayed for dismissal of the Company Petition with costs.

REJOINDER OF THE PETITIONER

34. It is submitted that the plea of maintainability is misconceived. Oppression relates to the conduct of those in management and control, regardless of their shareholding percentage. The minority in

shareholding (R2 and R3) can, and did, oppress the majority shareholders by abusing their management control.

35. It is submitted that the appointment of four petitioners as Directors in the EGM of 27.06.2022 was valid. The subsequent characterization of them as "Additional Directors" by the 2nd Respondent was a fraudulent and manipulative strategy to illegally curtail their tenure.

36. It is submitted the Board Meetings convened by the 2nd Respondent on 15.07.2022 that and 21.12.2022 were void *ab initio* for want of proper notice to all directors as mandated by Section 173 of the Act and the Secretarial Standards. The Respondents' claim of the Company making a profit of Rs. 30 lakhs in FY 2021-22 (a COVID-affected year) after consistently showing losses for all prior years is itself evidence of "window dressing" and manipulation of accounts. It corroborates the Petitioners' contention that funds were being siphoned off in previous years by inflating expenses and under-reporting revenues. It is submitted that the resignation of the statutory auditor in 2020 further points towards the mismanagement by the 2nd Respondent.

37. It is submitted that the Board Meeting of 28.12.2022 convened by the Petitioners was valid as the directors appointed on 27.06.2022 continued to hold office, and the quorum was therefore met.

<u>CP(CA)/29(CHE)/2024</u>

38. Company Petition No. 29 of 2024 has been filed by the Petitioners (Respondents in CP(CA)/3(CHE)/2023), who are the very same Petitioners as in CP(CA)/22(CHE)/2023 and who collectively hold about 57.62% of the paid-up share capital of the 1st Respondent Company, under Section 213(a)(i) read with Sections 221 and 447 of the Companies Act, 2013, against the 1st Respondent Company, its erstwhile management (Respondents No. 2 and 3), the Statutory Auditor (Respondent No. 4) and others, seeking, in substance, an order directing an investigation into the affairs of the 1st Respondent Company. By way of interim relief, the Petitioners have sought a direction to deposit the daily collections of the Company in a separate/escrow account, to freeze the bank accounts, funds, assets and properties of the Company and the personal assets of Respondents No. 2 and 3 under Section 221 of the Act pending investigation, to restrain any disinvestment of shares by Respondents No. 2 and 3, and to direct production of the asset and liability statements, cash-flow statements and trial balances for the last five years.

39. By way of final relief, the Petitioners have sought, inter alia, a direction to the Registrar of Companies to call for information and to conduct an inquiry and inspection of the books of the Company; a direction to the Central Government to investigate into the affairs of the Company and to appoint an Inspector on the premise that the affairs of the Company are being conducted in a fraudulent and

dishonest manner; action against Respondents No. 2 and 3 under Section 447 of the Act; a direction to the Income-Tax authorities to investigate alleged income-tax evasion and acceptance of cash payments in respect of bookings; removal of Respondent No. 4 from the office of Statutory Auditor and a reference to the ICAI for disciplinary action; appointment of a reputed firm of Chartered Accountants to re-audit the financial statements; action under Sections 447, 448, 449 and 450 of the Act against Respondents No. 2, 3 and 4 for filing false statements and adducing false evidence; and a declaration that the personal assets of Respondents No. 2, 3 and 4 were created by diversion and misappropriation of the Company's funds. The grounds urged are diversion of funds and financial mismanagement, non-disclosure/incorrect disclosure of related party transactions, fabrication and non-placement of the financial statements for FY 2021-22, illegal appointment and cessation of directors, denial of inspection of statutory records, and complicity of the Statutory Auditor.

40. The Respondents No. 2 and 3 resisted the petition, primarily by way of a memo, contending that the petition is not maintainable and is an abuse of the process of the Tribunal. It was submitted that the allegations, contentions and averments raised in CP(CA)/29(CHE)/2024 are identical to, and a mere reproduction of, the allegations already raised and pending adjudication in CP(CA)/22(CHE)/2023, and that a tabular comparison placed on record establishes that each such allegation - appointment and cessation of directors, the Board Meeting dated 01.09.2022, related party transactions and non-furnishing of

statutory records is already the subject matter of CP(CA)/22(CHE)/2023. It was further submitted that the Petitioners suppressed the pendency of CP(CA)/3(CHE)/2023 and CP(CA)/22(CHE)/2023 and presented the present petition after repeatedly seeking adjournments in those matters, and that the Petitioners, being the majority who have, year after year, participated in and approved the audited accounts of the Company at its Annual General Meetings, cannot seek an investigation into the very accounts they have approved. The Respondents prayed that the petition be dismissed with costs.

41. The Respondent No. 4, the Statutory Auditor, filed a separate counter denying the allegation that it was a 'puppet' of Respondents No. 2 and 3 or that it acted hand in glove with them. It was submitted that Respondent No. 4 was validly appointed through a Board Resolution dated 28.09.2020 consequent upon the resignation of the previous auditor, that the related party balances were duly disclosed in the notes to the financial statements in accordance with Accounting Standard 18, that the loans reflected in the accounts were supported by ledger entries and management representations, and that Respondent No. 4 had in any event resigned as Statutory Auditor by letter dated 08.02.2024 and filed Form ADT-3. It was contended that the allegations against the Auditor are false, frivolous and unsupported by any material.

42. In rejoinder, the Petitioners reiterated the averments in the petition and contended that the relief of investigation under Section 213 is distinct from the reliefs sought under Sections 241 and 242, that a person in management can be investigated irrespective of shareholding, and that the gravity of the alleged financial irregularities and the conduct of the Auditor warrant a thorough investigation into the affairs of the Company.

FINDINGS OF THE TRIBUNAL

43. Heard the submissions made by the Learned Counsel for the parties and perused the records, including the written submissions.

44. From the submissions made by the Learned Counsel for both the parties, the following issues arises for consideration

(i) *Whether CP(CA)/3(CHE)/2023 discloses a case of oppression and mismanagement within the meaning of Sections 241 and 242 of the Companies Act, 2013?*

(ii) *Whether the directors inducted pursuant to the EGM dated 27.06.2022 were merely Additional Directors under Section 161 of the Companies Act, 2013 and whether they validly continued in office after 30.09.2022?*

(iii) *Whether the filing of Form DIR-12 dated 21.12.2022 recording cessation of the directors was legal and valid?*

(iv) *Whether the Board Meeting dated 25.11.2022 and the resolutions passed therein are valid?*

(v) *Whether the majority shareholders were denied participation in management and whether such conduct amounts to oppression?*

(vi) *Whether the allegations relating to financial irregularities warrant an independent forensic audit?*

(vii) *Whether the Petitioners in CP(CA)/29(CHE)/2024 have made out a case for ordering an investigation into the affairs of the Company under Section 213 of the Companies Act, 2013?*

(viii) *To what reliefs are the parties entitled to?*

ISSUE NO. (I) - WHETHER CP(CA)/3(CHE)/2023 DISCLOSES A CASE OF OPPRESSION AND MISMANAGEMENT WITHIN THE MEANING OF SECTIONS 241 AND 242 OF THE COMPANIES ACT, 2013?

45. On a careful reading of the pleadings, this Tribunal finds that the foundation of CP(CA)/3(CHE)/2023 is not a classic case of oppression of shareholders in their capacity as members, but a management dispute arising out of a bitter struggle for control of the Company. The Petitioners in CP(CA)/3/CHE/2023 are admittedly a minority group in shareholding, while the respondents constitute the majority group. The pleadings show that the Company is a hospitality business with a resort at Kolli Hills, and that the 1st Petitioner had for years acted as Managing Director and claims to have built the enterprise with his own resources and personal efforts. The petition is framed as one for oppression and mismanagement, but the reliefs substantially seek protection of the Petitioners' directorial positions, restraint against their removal, and nullification of board resolutions.

46. This Tribunal is conscious that every corporate dispute cannot be elevated into oppression and mismanagement. The jurisdiction under Sections 241 and 242 is invoked where the conduct complained of is burdensome, harsh and wrongful, and where the affairs of the Company are being conducted in a manner prejudicial to the interests of the Company or its members. In the present case, the substance of CP(CA)/3/CHE/2023 is that the majority shareholders sought to alter the management structure and question the functioning of the Petitioners. That by itself, without more, does not establish oppression. The pleadings show that the grievance is essentially against threatened or attempted removal from the Board and against the restructuring of management control, which is not enough to sustain a petition under Section 241.

47. Therefore, we are of the view that CP(CA)/3/CHE/2023 does not establish an independent or sustainable case of oppression and mismanagement. The petition appears to have been filed to resist the changing management equation and to preserve the Petitioners' control over the Company, rather than to vindicate any genuine shareholder oppression. Accordingly, the issue is answered.

ISSUE NO. (ii) WHETHER THE DIRECTORS INDUCTED PURSUANT TO THE EGM DATED 27.06.2022 WERE MERELY ADDITIONAL DIRECTORS UNDER SECTION 161 OF THE COMPANIES ACT, 2013 AND WHETHER THEY VALIDLY CONTINUED IN OFFICE AFTER 30.09.2022?

48. This issue lies at the heart of the dispute between the parties. The Petitioners in CP(CA)/22(CHE)/2023 have contended that

Petitioners No.2, 3, 4 and 6 therein were validly appointed as regular Directors at the Extraordinary General Meeting held on 27.06.2022 and that the subsequent treatment of their appointments as appointments of Additional Directors was a fraudulent device adopted by Respondents No.2 and 3 therein to curtail their tenure. On the other hand, the Respondents in CP(CA)/22(CHE)/2023, who are the Petitioners in CP(CA)/3(CHE)/2023, have contended that all eight persons were inducted only as Additional Directors under Section 161 of the Companies Act, 2013 at the Board Meeting held on 15.07.2022 and consequently ceased to hold office on 30.09.2022, being the last date on which the Annual General Meeting for the financial year 2021-22 ought to have been held.

49. We have carefully considered the rival submissions and the surrounding circumstances. It is an admitted position that the Extraordinary General Meeting dated 27.06.2022 was convened at the instance of the majority shareholders who were seeking greater participation in the affairs of the Company. It is also not in dispute that the names of certain individuals were proposed by the shareholders for induction into the Board. The crucial question, however, is whether the proposal made by the shareholders at the EGM culminated in their appointment as regular Directors or whether they were subsequently appointed only as Additional Directors by the Board.

50. A perusal of the pleadings reveals that the majority shareholders themselves have consistently asserted that the names of the concerned individuals were proposed before the shareholders for appointment as

Directors. The very foundation of their grievance is that those individuals were intended to be inducted into the Board as regular Directors representing the majority shareholders. If that be so, the conduct of Petitioner in CP(CA)/3(CHE)/2023 in subsequently appointing the very same individuals as Additional Directors under Section 161 assumes significance. We find considerable force in the contention that the characterization of those appointees as "Additional Directors" was not in consonance with the intention underlying the proposal placed before the shareholders. The record indicates that the shareholders desired representation on the Board through their nominees. However, instead of effectuating such induction in its true spirit, the Petitioners in CP(CA)/3(CHE)/2023 chose to appoint those individuals as Additional Directors at the Board Meeting dated 15.07.2022. By doing so, the tenure of such appointees became inherently temporary and vulnerable to cessation upon the occurrence of the statutory event contemplated under Section 161.

51. Further, this Tribunal cannot lose sight of the fact that the power to appoint an Additional Director under Section 161 is intended to meet contingencies and to strengthen the Board until the shareholders have an opportunity to consider the matter. Such power cannot be exercised in a manner that defeats or dilutes the expressed intention of the shareholders. If the shareholders had sought representation through identified individuals, reducing their status to that of Additional Directors had the effect of making their continuance dependent upon circumstances entirely outside their control. What is

even more significant is the subsequent conduct of Petitioners in CP(CA)/3(CHE)/2023. The pleadings disclose that the Annual General Meeting for the financial year 2021-22 was admittedly not held on or before 30.09.2022. The majority group has alleged that this omission was deliberate and was intended to ensure the automatic cessation of the newly inducted directors. While we refrain from recording a finding regarding the motive behind the non-convening of the AGM, the sequence of events cannot be ignored. The persons proposed by the shareholders for induction into the Board were first categorized as Additional Directors and thereafter their offices were allowed to lapse by operation of law due to the non-holding of the AGM.

52. We find that such conduct is inconsistent with the principles of corporate democracy. The shareholders constitute the supreme body of the Company and their desire to secure representation on the Board cannot be frustrated through procedural devices. The substance of the transaction must prevail over its form. Merely because Form DIR-12 or board records described the appointees as Additional Directors does not conclusively determine the true nature of the induction when the surrounding circumstances indicate that the shareholders had intended them to function as regular Directors.

53. Thus, we are of the considered view that Respondents No.2 and 3 in CP(CA)/22(CHE)/2023, who are the Petitioners in CP(CA)/3(CHE)/2023, acted contrary to the intent of the shareholders by inducting the proposed nominees as Additional Directors. Having themselves chosen such mode of appointment, they cannot

subsequently take advantage of the cessation contemplated under Section 161 and contend that the nominees of the majority shareholders automatically vacated office on 30.09.2022. We further hold that the induction of the nominees proposed by the shareholders cannot be treated as a mere temporary appointment under Section 161 for the purpose of depriving the majority shareholders of representation in the management of the Company. The plea that all such directors automatically ceased to hold office on 30.09.2022 cannot therefore be accepted. The issue is answered in favour of the Petitioners in CP(CA)/22(CHE)/2023 and against the Petitioners in CP(CA)/3(CHE)/2023.

ISSUE NO. (iii) WHETHER THE FILING OF FORM DIR-12 DATED 21.12.2022 RECORDING CESSATION OF THE DIRECTORS WAS LEGAL AND VALID?

54. The principal grievance of the Petitioners in CP(CA)/22(CHE)/2023 is that Respondents No.2 and 3 therein, namely Mr. S. Ravindhra Reddy and Mr. D. Balaji, unilaterally filed Form DIR-12 before the Registrar of Companies showing cessation of the newly inducted directors on the premise that they were Additional Directors whose tenure had expired under Section 161 of the Companies Act, 2013. According to the Petitioners, the filing was not a *bona fide* statutory compliance but a deliberate attempt to remove the representatives of the majority shareholders from the management of the Company and thereby regain exclusive control over the affairs of the Company.

55. This Tribunal has already held while deciding Issue No. (ii) that the nominees proposed by the shareholders were intended to be inducted as regular Directors and that the subsequent characterization of their appointment as Additional Directors cannot be permitted to defeat the will of the shareholders. Once such a finding is reached, the very foundation upon which the impugned DIR-12 was filed ceases to exist. It is also seen that the filing of DIR-12 was undertaken at a time when serious differences had already emerged between the majority shareholders and Respondents No.2 and 3. The record further discloses that the majority shareholders had repeatedly sought participation in management and access to the affairs of the Company. Instead of facilitating such participation, Respondents No.2 and 3 chose to proceed with a filing that effectively removed the majority shareholders' representatives from the Board.

56. The defence that the filing was merely a ministerial or procedural act cannot be accepted. A statutory filing is only as valid as the corporate action underlying it. When the underlying assumption regarding cessation of office is itself found to be unsustainable, the consequential filing cannot survive independently. By recording cessation of the directors representing the majority shareholders, Respondents No.2 and 3 ensured that the management reverted substantially into their hands. Such action had the effect of frustrating the legitimate expectation of the majority shareholders to participate in the governance of the Company. Corporate democracy cannot be

permitted to be defeated through unilateral filings before the Registrar of Companies.

57. Therefore, we are of the considered opinion that the filing of Form DIR-12 dated 21.12.2022 was not a *bona fide* statutory act but was a calculated step undertaken to alter the composition of the Board and exclude the representatives of the majority shareholders from management. Such conduct is oppressive, prejudicial and contrary to the principles of fair corporate governance. Accordingly, the Tribunal holds that the filing of Form DIR-12 dated 21.12.2022 is illegal, invalid and liable to be set aside.

ISSUE NO. (iv) WHETHER THE BOARD MEETING DATED 25.11.2022 AND THE RESOLUTIONS PASSED THEREIN ARE VALID?

58. The Petitioners in CP(CA)/3(CHE)/2023 have challenged the validity of the Board Meeting dated 25.11.2022 on the ground that certain directors had ceased to hold office. Conversely, the Petitioners in CP(CA)/22(CHE)/2023 contend that the meeting was validly convened and attended by duly appointed directors.

59. The determination of this issue necessarily depends upon the findings already recorded regarding the status of the directors. Once it is held that the nominees proposed by the shareholders were intended to function as regular directors and that their representation on the Board could not be curtailed by treating them as Additional Directors, the objection regarding their participation in the meeting loses force.

60. It is also required to be noted that the Board Meeting of 25.11.2022 was convened at a time when the majority shareholders had become increasingly concerned regarding the affairs of the Company. The resolutions passed in the said meeting were intended to bring greater transparency in the administration of the Company and to ensure collective decision-making. The appointment of a Joint Managing Director and constitution of committees were measures intended to distribute managerial powers which had hitherto remained concentrated in the hands of Respondents No.2 and 3. The Petitioners in CP(CA)/3(CHE)/2023 have failed to establish that the meeting suffered from any fatal procedural irregularity. Their entire challenge is founded upon the assumption that the participating directors had ceased to hold office. Since that contention has already been rejected, no independent ground survives to invalidate the meeting.

ISSUE NO. (v) WHETHER THE MAJORITY SHAREHOLDERS WERE DENIED PARTICIPATION IN MANAGEMENT AND WHETHER SUCH CONDUCT AMOUNTS TO OPPRESSION?

61. It is seen from the pleadings in CP(CA)/22(CHE)/2023 that despite collectively holding 57.62% of the paid-up share capital, the Petitioners were systematically excluded from participation in the affairs of the Company. The evidence placed before this Tribunal demonstrates that the affairs of the Company were substantially controlled by Respondents No.2 and 3 for several years. While there can be no dispute regarding the contribution made by the 2nd Respondent towards establishment and development of the resort

project, such contribution does not confer upon him a perpetual right to exclusively control the affairs of the Company. A company is a separate legal entity. Its affairs are required to be conducted in accordance with the Companies Act and in conformity with the wishes of its shareholders expressed through lawful corporate processes. Majority shareholders cannot be reduced to passive investors while managerial powers remain concentrated in the hands of a few individuals. The material on record shows repeated complaints regarding non-furnishing of records, denial of inspection rights, unilateral decision-making and exclusion of the majority shareholders from important decisions affecting the Company. The filing of DIR-12, the challenge to the validity of appointments and the attempts to prevent participation of the majority shareholders in management all form part of a continuous course of conduct.

62. The term 'Oppression' is not determined merely by numerical strength. Even a minority shareholder exercising effective managerial control can oppress a majority shareholder by abusing such control. The test is whether the conduct is burdensome, harsh and wrongful. Applying the above principles, this Tribunal is satisfied that Respondents No.2 and 3 in CP(CA)/22(CHE)/2023 used their managerial position to frustrate the legitimate rights of the majority shareholders and thereby conducted the affairs of the Company in a manner oppressive to them. The issue is therefore answered in favour of the Petitioners in CP(CA)/22(CHE)/2023.

<u>ISSUE NO. (vi) WHETHER THE ALLEGATIONS RELATING TO FINANCIAL IRREGULARITIES WARRANT AN INDEPENDENT FORENSIC AUDIT?</u>

63. The Petitioners in CP(CA)/22(CHE)/2023 have sought appointment of a Forensic Auditor to examine the affairs of the Company. The basis of such prayer is the allegation that Respondents No.2 and 3 have diverted funds, failed to properly account for monies raised from shareholders, manipulated financial statements, denied access to records and conducted the affairs of the Company in a non-transparent manner.

64. The Respondents have denied all such allegations and contend that the accounts of the Company have been duly maintained, audited and placed before the shareholders from time to time. It is further contended that the allegations are vague, unsupported by documentary evidence and have been raised only after disputes arose between the rival groups regarding the management of the Company.

65. We have considered the rival submissions. There can be no dispute that the power to order a forensic audit is available to this Tribunal in an appropriate case. However, such power is an extraordinary one and cannot be exercised merely because allegations of financial impropriety are made by one group of shareholders against another. Before directing a forensic audit, there must exist sufficient *prima facie* material demonstrating serious financial irregularities, siphoning of funds, falsification of accounts or other circumstances necessitating a detailed forensic investigation. It is also relevant to note that the financial statements of the Company have

been subjected to statutory audit and have been placed before the shareholders over the years. While the Petitioners have expressed dissatisfaction regarding certain accounting entries and transactions, such dissatisfaction by itself cannot constitute sufficient ground for directing a forensic audit. Mere suspicion, apprehension or loss of confidence between shareholders cannot be equated with proof of financial misconduct.

66. It is also noted that the disputes between the parties are primarily centred around control and management of the Company, the composition of the Board, and participation in decision-making processes. The principal acts of oppression established in the present proceedings relate to exclusion of the majority shareholders from management and the unlawful alteration of the Board structure. Those grievances can be adequately remedied by restoring proper corporate governance and ensuring representation of all stakeholder groups in the management of the Company.

67. In such circumstances, we are of the considered view that appointment of a Forensic Auditor at this stage would not serve any useful purpose and may unnecessarily burden the Company with avoidable costs and further prolong the disputes between the parties. In the absence of compelling material demonstrating financial impropriety, the prayer for forensic audit does not merit acceptance.

ISSUE NO. (VII) WHETHER THE PETITIONERS IN CP(CA)/29(CHE)/2024 HAVE MADE OUT A CASE FOR ORDERING AN INVESTIGATION INTO THE AFFAIRS OF THE COMPANY UNDER SECTION 213 OF THE COMPANIES ACT, 2013?

68. In CP(CA)/29(CHE)/2024, the Petitioners seek, in substance, a direction for investigation into the affairs of the 1st Respondent Company by the Central Government and the Registrar of Companies, the appointment of an Inspector, the freezing of assets under Section 221 of the Act, the removal of the Statutory Auditor and consequential penal action under Sections 447 to 450 of the Act. The power to order an investigation into the affairs of a company under Section 213 of the Companies Act, 2013 is a drastic and extraordinary power. An order of investigation carries serious consequences, casting a cloud over the reputation and standing of the company and of the persons connected with its management, and is therefore not to be passed as a matter of course.

69. It is well settled that before ordering an investigation under Section 213, the Tribunal must, after giving a reasonable opportunity to the parties concerned, be satisfied that there exist circumstances suggesting that the business of the company is being conducted with intent to defraud its creditors, members or any other person, or for a fraudulent or unlawful purpose, or in a manner oppressive to any of its members, or that the persons concerned in the formation or management of the company have been guilty of fraud, misfeasance or other misconduct. Such satisfaction must rest upon credible and cogent

material disclosing a strong prima facie case. Mere allegations, suspicion, apprehension or loss of mutual confidence between rival groups of shareholders are not, by themselves, sufficient to warrant a roving and fishing investigation into the affairs of a company. Equally, an allegation of fraud, which attracts the penal consequences of Section 447, must be specifically pleaded with particulars and supported by material, and cannot be founded upon bald and sweeping assertions.

70. Tested on these principles, this Tribunal finds that no sufficient prima facie material has been placed on record to justify an investigation under Section 213. The allegations urged in support of the prayer - relating to the disclosure of related party transactions, the quantum of unsecured loans, the date on which the financial statements for FY 2021-22 were signed, the appointment and cessation of directors and the alleged denial of access to records - are essentially in the nature of accounting and management disputes between two rival groups. The financial statements of the Company have admittedly been subjected to statutory audit and have been laid before and approved by the shareholders, including the Petitioners, at the Annual General Meetings held over the years without demur. Having participated in and approved those accounts, the Petitioners, who themselves constitute the majority holding 57.62% of the paid-up capital, cannot now seek an investigation into the very accounts they have approved on the strength of unsubstantiated allegations. Insofar as the Statutory Auditor (Respondent No. 4) is concerned, the material on record shows a valid appointment, disclosure of related party

balances in conformity with Accounting Standard 18 and the subsequent resignation of the Auditor; no prima facie case of complicity or fraud has been made out. The reliefs sought against the Registrar of Companies and the Income-Tax authorities are equally unsupported by any foundation laid in the pleadings.

71. This Tribunal is further of the view that CP(CA)/29(CHE)/2024 is, in substance, a re-agitation of the very grievances already raised by the same Petitioners in CP(CA)/22(CHE)/2023. A comparison of the pleadings demonstrates that the allegations regarding the appointment and cessation of directors, the Board Meeting dated 01.09.2022, related party transactions and non-furnishing of records are common to both petitions. The same set of facts cannot be split and re-litigated through successive proceedings, and such a course amounts to an abuse of the process of the Tribunal. It is also significant that, while adjudicating Issue No. (vi) above, this Tribunal has already declined the Petitioners' prayer for a forensic audit for want of sufficient prima facie material of financial impropriety. An investigation under Section 213 is a far more drastic and intrusive measure than a forensic audit; a fortiori, where the lesser relief has been found unwarranted on the same material, the greater relief of a statutory investigation cannot be granted.

72. The Petitioners, being the majority shareholders, are not without remedy. Their legitimate grievances relating to participation in management, restoration of their nominees to the Board and access to the records of the Company stand adequately addressed by the

directions issued in CP(CA)/22(CHE)/2023. The object of these proceedings being remedial and not punitive, and proper corporate governance having been restored, an order of investigation would serve no useful purpose and would only burden the Company with avoidable costs and prolong the disputes between the parties. For these reasons, this Tribunal holds that the Petitioners have failed to make out any case for ordering an investigation into the affairs of the Company under Section 213 of the Companies Act, 2013. The issue is answered against the Petitioners and CP(CA)/29(CHE)/2024 is liable to be dismissed.

ISSUE NO. (viii) TO WHAT RELIEF ARE THE PARTIES ENTITLED TO

73. In view of the discussions as made above, this Tribunal is of the considered opinion that the disputes between the parties are not merely isolated disagreements relating to the internal management of the Company but arise from a sustained conflict regarding participation in the governance of the 1st Respondent Company.

74. The material available on record establishes that the Petitioners in CP(CA)/22(CHE)/2023 collectively constitute the majority shareholders holding 57.62% of the paid-up share capital of the Company. It has also been established that despite such majority shareholding, they were effectively denied meaningful participation in the management of the Company. The evidence further discloses that the nominees proposed by the shareholders for representation on the Board were subsequently treated as Additional Directors and their continuance in office was sought to be defeated through the filing of

Form DIR-12 recording cessation of their office. The cumulative effect of these actions was to exclude the majority shareholders from the management of the Company and to concentrate control in the hands of Respondents No.2 and 3.

75. This Tribunal is unable to accept the contention of Respondents No.2 and 3 that the actions undertaken by them were merely procedural compliances under the Companies Act, 2013. Corporate powers are required to be exercised in a fair, transparent and equitable manner. The powers vested in the management cannot be utilized in a manner that defeats the legitimate expectations of shareholders, particularly where the shareholders collectively constitute the majority of the Company's ownership.

76. At the same time, this Tribunal is equally conscious that the jurisdiction under Sections 241 and 242 of the Companies Act, 2013 is essentially remedial and not punitive. The objective of the Tribunal is not to punish one group of shareholders in favour of another, but to bring an end to the matters complained of and to ensure that the affairs of the Company are conducted in a fair and lawful manner in future. The powers conferred under Section 242 are equitable in nature and are intended to protect the Company itself from the consequences of continuing shareholder disputes.

77. Insofar as CP(CA)/3(CHE)/2023 is concerned, this Tribunal finds that the Petitioners therein have failed to establish that the acts complained of constitute oppression and mismanagement within the

meaning of Sections 241 and 242 of the Act. The grievances raised therein substantially relate to the preservation of managerial control and resistance to participation by the majority shareholders in the affairs of the Company. The reliefs sought are primarily directed towards safeguarding the positions held by the Petitioners as directors and preventing the majority shareholders from exercising their legitimate rights. Such grievances do not, by themselves, constitute oppression warranting relief under Sections 241 and 242 of the Act. On the other hand, the Petitioners in CP(CA)/22(CHE)/2023 have demonstrated that the affairs of the Company were conducted in a manner prejudicial to their interests as shareholders. The acts relating to the treatment of shareholder nominees as Additional Directors, the subsequent filing of Form DIR-12 recording cessation of their office and the exclusion of the majority shareholders from meaningful participation in management constitute acts which are burdensome, harsh and wrongful. Such conduct falls squarely within the ambit of oppression contemplated under the Companies Act, 2013.

78. The Tribunal is also of the view that restoration of corporate balance and proper governance would sufficiently address the grievances of the parties. Although allegations regarding financial irregularities have been made, this Tribunal has already held that no sufficient material has been placed on record warranting appointment of a Forensic Auditor. Mere allegations and suspicions, unsupported by cogent evidence, cannot form the basis for directing an intrusive

forensic investigation into the affairs of the Company. Consequently, the prayer seeking forensic audit is rejected.

79. However, in order to secure the interests of all shareholders and to ensure proper administration of the Company, appropriate directions are required to be issued under Section 242 of the Companies Act, 2013.

80. Accordingly, CP(CA)/29(CHE)/2024 stand **dismissed**.

81. CP(CA)/3(CHE)/2023 and CP(CA)/22(CHE)/2023 stands **disposed of** with the following directions:

(i) The Form DIR-12 filed by Respondents No.2 and 3 (Petitioners in CP(CA)/3(CHE)/2023) recording cessation of the directors representing the majority shareholders is declared invalid and is hereby set aside.

(ii) The directors whose names were removed pursuant to the aforesaid filing shall stand restored to their respective positions on the Board of Directors of the Company.

(iii) All consequential actions taken solely on the basis of the impugned DIR-12 filing shall stand annulled.

(iv) The Board of Directors of the Company shall thereafter function with representation from both shareholder groups so as to ensure transparency, accountability and balanced management of the affairs of the Company.

(v) All directors shall be entitled to inspect and access the statutory registers, books of account, financial records, contracts and other records of the Company in accordance with law.

(vi) Any major decision involving alienation, transfer, sale, lease, mortgage, encumbrance or creation of third-party rights over the principal assets of the Company shall be undertaken only after approval of the Board and in accordance with the provisions of the Companies Act, 2013.

(vii) The prayer seeking appointment of a Forensic Auditor is rejected.

(viii) The Company shall be managed by the Directors in accordance with the provisions of the Companies Act, 2013 and the directions contained herein.

(ix) In view of the relationship between the parties and the nature of the disputes involved, there shall be no order as to costs.

INTERLOCUTORY APPLICATIONS

82. During the pendency of these proceedings, the Petitioners in CP(CA)/3(CHE)/2023, namely Mr. S. Ravindhra Reddy and six others, filed IA(CA)/119(CHE)/2023 under Rule 11 of the National Company Law Tribunal Rules, 2016, praying for the appointment of a Registered Valuer to value the shares of the 1st Respondent Company and to submit a report to this Tribunal, so as to enable one group of shareholders to buy out the other and thereby bring a quietus to the disputes. The said application was resisted by Respondents No. 2 to 10 therein, who contended that the application was not maintainable, that

the proposal for valuation and buy-out was a device to prolong the proceedings and to facilitate a sale of the Company's only asset, and that no case had been made out for the appointment of a Registered Valuer.

83. Likewise, the Petitioners in CP(CA)/22(CHE)/2023 and CP(CA)/29(CHE)/2024, namely Mr. A. Vijayan and others, filed IA(CA)/123(CHE)/2025 under Rule 11 of the National Company Law Tribunal Rules, 2016, praying for a direction to give effect to the resolutions stated to have been passed at the Extraordinary General Meeting held on 23.01.2023 as recorded in the report of the Tribunal-appointed Observer and Chairman, and to take note of the order dated 03.04.2025 passed by the Hon'ble NCLAT in Company Appeal (AT)(CH) No. 29 of 2025. The said application was opposed by Respondents No. 1 and 2 therein, who disputed the resolutions said to have been passed at the meeting of 23.01.2023 and contended that the application was misconceived and had been rendered infructuous.

84. We have considered the prayers made in both the interlocutory applications, which were taken up along with the main petitions and are disposed of in terms of the findings recorded above. Insofar as IA(CA)/119(CHE)/2023 is concerned, this Tribunal has, for the reasons already recorded, chosen to restore corporate balance and to continue the Company as a going concern with representation of both shareholder groups on the Board, rather than to direct a separation of the parties through valuation and buy-out; the relief of appointing a

Registered Valuer is therefore neither necessary nor warranted, and **IA(CA)/119(CHE)/2023 is accordingly dismissed**.

85. Insofar as IA(CA)/123(CHE)/2025 is concerned, the Applicants have sought a direction to give effect to the resolutions stated to have been passed at the Extraordinary General Meeting held on 23.01.2023, as recorded in the report of the Tribunal-appointed Observer and Chairman, and to take note of the order dated 03.04.2025 passed by the Hon'ble NCLAT in Company Appeal (AT)(CH) No. 29 of 2025. Having regard to the findings recorded in the present order, particularly the declaration that the Form DIR-12 filed by Respondents No. 2 and 3 recording the cessation of the directors representing the majority shareholders is invalid and the consequential direction for reconstitution of the Board of Directors, we are of the considered view that it would neither be appropriate nor in the interests of proper corporate governance to give effect to the resolutions purportedly passed at the Extraordinary General Meeting held on 23.01.2023. Accordingly, the resolutions purportedly passed at the Extraordinary General Meeting held on 23.01.2023 are hereby set aside. It is, however, made clear that upon reconstitution of the Board of Directors in terms of this order, the reconstituted Board shall be at liberty, if it considers it necessary and expedient in the interests of the Company, to convene a fresh Extraordinary General Meeting and place before the shareholders any or all of the proposals which formed the subject matter of the Extraordinary General Meeting held on 23.01.2023, for their consideration and decision in accordance with the provisions of the

Companies Act, 2013 and the Articles of Association of the Company. **IA(CA)/123(CHE)/2025 is disposed of** in the above terms.

86. Before parting with the matter, this Tribunal observes that the Company is a closely held company promoted with the common objective of establishing and operating a hospitality venture. The prolonged disputes between the shareholder groups have adversely affected the functioning of the Company. It is expected that all parties shall act in the larger interests of the Company and refrain from initiating actions that may further aggravate the disputes. The future prosperity of the Company depends upon collective participation and adherence to the principles of corporate governance rather than continued factional conflicts.

87. With the above observations and directions,

CP(CA)/29(CHE)/2024 stand **dismissed.**

CP(CA)/3(CHE)/2023 and CP(CA)/22(CHE)/2023 stand **disposed of** with the aforesaid directions.

IA(CA)/119(CHE)/2023 stands **dismissed.**

IA(CA)/123(CHE)/2025 is **disposed of**.

Any interim order, if pending, stands vacated.

All connected applications, if any, shall stand **closed**.

88. Files be consigned to records.

Sd/-	**Sd/-**
VENKATARAMAN SUBRAMANIAM	**SANJIV JAIN**
MEMBER (TECHNICAL)	MEMBER (JUDICIAL)