NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) No. 55 of 2026

(Arising against the impugned order dated 12.12.2025, as passed by the Ld. National Company Law Tribunal, Kolkata Bench, Court III in Transfer Petition No. 26(KB)2025)

With

Company Appeal (AT) No. 137 of 2026

(Arising against the impugned order dated 13.02.2026 passed by the Hon'ble National Company Law Tribunal, Kolkata Bench in Transfer Petition No. 26/KB/2025)

IN THE MATTER OF:

Ms. Salma Moosa	**...Appellant No. 1**
Mr. Srinivasan Vivek	**...Appellant No. 2**
Versus	
Mr. Akarappu Om Yeshwanth	**...Respondent No.1**
Mr. Ravishekar V Kalepu	**...Respondent No.2**
Ms. Nirupama Kalepu	**...Respondent No.3**
Mr. Shakil Hanjgikar	**...Respondent No.4**
Mr. Z. Mahin Ahamed	**...Respondent No.5**
Ms. Mamatha Kamireddy	**...Respondent No.6**
Mr. Sravan Kumar Davuluri	**...Respondent No.7**
Mr. Mohan Das	**...Respondent No.8**
M/s Startups Club Services Private Limited	**...Respondent No.9**
M/s Startups Club Networks LLP	**...Respondent No.10**

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Mr. Khuzema	**...Respondent No.11**
Mr. Pavan Kumar Adapa	**...Respondent No.12**
Ms. Richa Bhalla	**...Respondent No.13**
Mr. Ravindra Kumar Bhatnagar	**...Respondent No.14**
Mr. Suresh Bajaj	**...Respondent No.15**
M/s Scin LLP	**...Respondent No.16**
Mr. Maheshinder Singh Bhalla	**...Respondent No.17**
Ms. Smitha Nanda Kishoran	**...Respondent No.18**
Mr. Anish Sri Krishna	**...Respondent No.19**
Ms. Veena Souza	**...Respondent No.20**
Mr. Chavarkad Sagar Shyama	**...Respondent No.21**
M/s Scincurator LLP	**...Respondent No.22**
The Registrar of Companies	**...Respondent No.23**
The Secretary, Government of India, Ministry of Corporate Affairs	**...Respondent No.24**

Present:
For Appellant : Mr. Senthil Kumar, Advocate.
For Respondent : Mr. Likhith, Advocate for R-1 to R-8.

J U D G M E N T
(3rd September, 2026)

SHARAD KUMAR SHARMA, MEMBER (J)

These two company appeals are before us, where the appellant invokes, the appellant's jurisdiction, under Section 421 of the Companies

Act, 2013, for putting challenge to the impugned orders, as discussed hereunder:

(i) In **Comp. App. (AT) No. 55 of 2026**, the challenge is to the impugned order of 12.12.2025, as passed by the Ld. National Company Law Tribunal, Kolkata Bench, Court III in Transfer Petition No. 26(KB)2025.

(ii) In **Comp. App (AT) No. 137 of 2026**, the challenge is to the order of 13.02.2026, as passed by the Ld. National Company Law Tribunal, Kolkata in Transfer Petition No. 26/KB/2025.

2. If we could summarize, the relief was sought primarily because it attracted the drawing of an inquiry or an investigation while invoking the provisions contained under Section 213 (b) of the Companies Act, 2013. For the purposes of attracting Section 213 (b) to order for carrying out the investigation as it has been done by the impugned order herein i.e. the order dated 12.12.2025 and 13.02.2026, respectively. The notices have been issued to the Enforcement Directorate as well as to the CBI, calling for them to track the tracking report. The nature of the order of issuing notices to the Enforcement Directorate and the CBI and calling for a tracking report would amount to stepping into the initial stages of investigation as against the appellant, and in that eventuality, at what appropriate stage the steps could be taken for carrying out the investigation had to be made in league with the provisions contained under Section 213 (b) of the Companies Act, 2013.

3. Section 213 (b) of the Companies Act, 2013, provides for the vesting of the powers of the Tribunal, who could direct an investigation into the affairs of the company. For the said purpose, the straight jacket prescription has been contemplated under sub-Section (b) of Section 213 of the Companies Act, 2013. The first part of sub-Section (b) of Section 213 lays down the parameters for resorting to the steps to be followed by the Tribunal in order to 'satisfy' itself that upon receipt of the set of allegations and the circumstances that are placed before the Tribunal, the investigation is required, if at all. Meaning thereby, an investigation cannot be ordered merely because the Tribunal is in receipt of an application. Since carrying out an investigation has serious repercussions and consequences on the status of the company and its own credibility in the market, that is why the law has contemplated that the Tribunal too, when it decides to hold an investigation, has to satisfy the parameters prescribed under Clause (i), (ii) and (iii) and only when it satisfies that the affairs of the company were intended to default its creditors, members, or such persons, or it has engaged in a fraudulent or an unlawful purpose of formation of the company or management of the affairs is in connection therewith guilty of fraud, misfeasance, and other misconduct or when the members do not give all the information with respect to the affairs of the company that could be reasonably expected to be supplied by them. It's only upon the satisfaction of the three ingredients that the Tribunal will have to satisfy itself that those parameters exist and thereafter give a reasonable opportunity of being heard

to the parties, and it's only after hearing the parties that the Tribunal could have issues notices to the ED or to the CBI in the case at hand. Once, prior to carrying out any steps of investigation, an opportunity becomes the prime ingredient as contemplated under law, and that could be attracted only subject to the existence of the conditions contained under sub-Section (b) and its sub-clauses its then only the investigation could have been directed only upon recording of satisfaction and after providing of an opportunity to the affected person or company who could justify as to whether at all the investigation in a given set of circumstances was at all required or not.

4. If we see the proviso to sub-section (b) of Section 213 of the Companies Act, 2013, it's only after determination of the causes as contemplated under Clause (i), (ii) and (iii); it's only upon the given reasonable opportunity to the company that's likely to be affected, and the companies are required to be heard before any investigation is directed to be carried out or any steps towards the investigation are directed to be carried out, and it's upon the holding of those steps and extortion of the process that the Tribunal can thereafter investigate if it is true that the business of the company is being conducted with the intent to defraud a person concerned in the information of the company or the management of the affairs having connection therewith being guilty of fraud. The relevant provisions of Section 213 (b) are extracted hereunder:

"Section 213 (b) on an application made to it by any other person or otherwise, if it is satisfied that there are circumstances suggesting that—

(i) the business of the company is being conducted with intent to defraud its creditors, members or any other person or otherwise for a fraudulent or unlawful purpose, or in a manner oppressive to any of its members or that the company was formed for any fraudulent or unlawful purpose;

(ii) persons concerned in the formation of the company or the management of its affairs have in connection therewith been guilty of fraud, misfeasance or other misconduct towards the company or towards any of its members; or

(iii) the members of the company have not been given all the information with respect to its affairs which they might reasonably expect, including information relating to the calculation of the commission payable to a managing or other director, or the manager, of the company, order, after giving a reasonable opportunity of being heard to the parties concerned, that the affairs of the company ought to be investigated by an inspector or inspectors appointed by the Central Government and where such an order is passed, the Central Government shall appoint one or more competent persons as inspectors to investigate into the affairs of the company in respect of such matters and to report thereupon to it in such manner as the Central Government may direct:
Provided that if after investigation it is proved that—
(i) the business of the company is being conducted with intent to defraud its creditors, members or any other persons or otherwise for a fraudulent or unlawful purpose, or that the company was formed for any fraudulent or unlawful purpose; or (ii) any person concerned in the formation of the

> *company or the management of its affairs have in connection therewith been guilty of fraud,*
>
> *then, every officer of the company who is in default and the person or persons concerned in the formation of the company or the management of its affairs shall be punishable for fraud in the manner as provided in section 447."*

5. In the case at hand, the directions that have been issued would fall within the ambit of Section 213 when the Tribunal, by the impugned order on the very first date, had called for the transformation report and had issued notices to the ED as well as the CBI. The order however doesn't speak about whether Ld. Tribunal is satisfied with compliance of the parameters prescribed under Section 213. Before holding an investigation or to justify carrying out any steps for investigation under the circumstances because there has had to be a satisfaction by the Tribunal, and satisfaction could be only where the Tribunal applies its mind after hearing the parties and comes to a conclusion after attaching rationality to hold the investigation. Since these parameters are apparently not seen to be complied with, it would amount to their having been an utter derogation of non-compliance of the procedure contemplated under law.

6. The appellant in **Comp. App. (AT) No. 55 of 2026**, claims that the appellant along with three other partners are shown to have incorporated a company named as M/s Startup Club Networks LLP the Respondent No. 10 herein to the company appeal. The club Services were for offering

mentoring, advisory, consultancy services and organizing entrepreneurship events.

7. On 01.11.2017, the appellants DIN number was deactivated, affecting RoC filings including the share allotment filings. As a result of which the Respondents No. 1 to 8, who have provided loans to Respondent No. 9 and to Appellants couldn't be regulated as per books. It was submitted that the Respondent No. 9 company has received a revenue of Rs. 1,18,73,833/-. Upon de-activation of the DIN number the appellant is said to have filed a writ petition before Hon'ble High Court of Karnataka, being **Writ Petition No. 40498/2019** praying for a writ of mandamus to direct the Registrar of Companies, Bangalore, to restore the DIN number of Appellant No. 1, as the same was not promptly activated, which was adversely affecting the business operations of the appellant.

8. Consequent to this contingent situation, the Respondents No.1 to 8 are said to have filed a Company Petition No. 27/BB/2021, before the Ld. NCLT, Bengaluru Bench, invoking the provisions contained under Sections 42(6), 73, 76, 213, 447, 448, 451 of the Companies Act, 2013, to be read with Section 43 of Limited Liability Partnerships Act, 2008. Setting up an allegation of fraud against the Respondent No. 9, and as well as against the appellant too.

9. In sequel of events thereto, the Registrar, NCLT issued an order transferring the matters relating to Section 73(4) to the newly constituted

NCLT Court III, Kolkata. During the interregnum due to certain anomalies in the functioning of Auditor, the Respondents No. 1 to 8 are said to have sought an action against the Auditor (Respondent No. 21 herein) for their act of misconduct of not timely submitting the audit report. Later the Respondent No. 21 submitted that the directors were disqualified on 01.11.2017 by the Ministry of Corporate Affairs. It's these proceedings, which was transferred and renumbered as TP/26(KB)2025 and the notices were issued.

10. While the Ld. Tribunal was ceased with the proceedings under Section 73(4) to be read with Section 213 of the Companies Act, 2013 in the form of TP/26(KB)2025, an application was preferred i.e. COMP.APPL/47(KB)2025, on which the Ld. Tribunal proceeded to pass an order on TP/26(KB)2025, while issuing notices on it to the parties, it had directed them to be impleaded as necessary party who were authorized to implement and act upon such directions.

11. We make it clear that at this stage while we are dealing with this company appeal, we are not concerned with regards to the other directions contained therein except for the directions contained in Part (iv) of the order dated 12.12.2025 as rendered in TP/26(KB)2025, which reads as under:

> *"iv. The Registry is directed to issue notice to Director, Enforcement Directorate, Pravartan Bhawan, Dr. APJ Abdul Kalam Road, New Delhi - 110011. Let the notice be sent by way*

> *of speed post or by e-mail, and the Registry is directed to place the tracking information on record."*

12. If we scrutinize the part of the order as extracted above, only notices have been issued to the Director, Enforcement Directorate. It is only this part of the order, by which the appellant is aggrieved, and has put it under challenge in the instant company appeal. Primarily, the foundation of challenge given by the appellant, to this part of the order is on a presumptive premise that the order itself suffers from the vices of non-application of mind, because at the stage, when the Tribunal was seized with the proceedings under Section 73(4) which was to be read with Section 213 of the Companies Act, 2013, the issue raised by the appellant was as whether at all there could be a direction, that would be required to be issued to the Enforcement Directorate. The said direction of issuance of notice to ED is alleged to be not required to be issued until and unless there is a rational application of mind by the Tribunal. To justify the necessity of inception of the proceedings, when the powers of the Tribunal are restricted to act upon the provisions contained under Section 210, 212 & 213 of the Companies Act, 2013, which could only be proceeded with upon establishment of a fact of prima facie case, and an establishment of a prima facie condition to hold an investigation against the affairs of the company.

13. At that stage of proceedings when only notices have been issued to ED, it is argued by the Ld. Counsel for the appellant that, it does not extend the need of impleadment of the Enforcement Directorate or the issuance of a

notice to it. It is further argued by the Ld. Counsel for the appellant that issuance of a notice to the Enforcement Directorate was uncalled-for and premature. Because for the reason that, if at all, there was a necessity to issue any notices to the Enforcement Directorate, it could be only when the pleadings were complete and the parties were given an opportunity of hearing and could have been only when the matter was addressed on merit, and thereafter only when the Tribunal was satisfied. The order of issuance of notice could be passed if at all it was necessary, only upon recording the satisfaction by the Tribunal for involvement of an external investigative agency.

14. The very fact that the Tribunal, has proceeded to call for the involvement of an external investigative agency without rational applicability of mind or determining its necessity, its argued that the direction, apart from the fact, would be in violation of the principle of natural justice. It will be perverse because of the non-application of the judicial mind and having been passed on the first date of inception of proceedings even without ensuring to hear the parties to justify the necessity of involvement of an external investigative agency.

15. If we see the order and the framework of the Companies Act, the involvement of an outside machinery for the purposes of carrying out the inquiry and investigation, has to be only after satisfying the conditions of the statute. Having not done so and the Ld. Tribunal having not recorded any reasons to issue notice to the Enforcement Directorate and involving its

participation in TP/26(KB)2025, being the proceedings which were being carried under Section 73(4) to be read with Section 213 of the Companies Act, 2013, it would be a premature stage calling the Director of the Enforcement Directorate to place the tracking information on record. Even if it is presumed that some tracking report was at all required to be called for, it could have been done by the Adjudicating Authority only after accessing the entire circumstances and inevitable necessity of getting the tracking information on record, and that too, after recording as to under what circumstances the ED was required to be called upon for the said purpose.

16. We have called upon the Ld. Counsel for the respondent to justify the circumstances under which the direction as contained under Clause IV of the impugned order has been issued. The arguments extended were not satisfactory.

17. On perusal of impugned order, we find no justification has been recorded for issuance of notice to ED at the first available instance, as the Tribunal didn't satisfy itself with the parameters contemplated under Section 213 (b) of the Act, to fulfill the prior conditions for issuing directions for carrying investigation, and for that before passing any order, the affected party is to be given a reasonable opportunity, to the appellant or any other party who is likely to be affected?

18. In the instant case, the directions given by the Adjudicating Authority to place the tracking information on record, were not backed by any sound

reasoning reflecting applicability of mind, nor does the order speak about being backed by any rationale logic, because the ED is an externally investigative agency and is outside the framework of the Companies Act, 2013, any investigation into the set-up allegations that could have been followed to be directed should be only subject to satisfying the conditions of Section 213 (b) of the Companies Act, 2013, and that too after adherence to the principle of natural justice.

19. Because of the fact that the impugned order doesn't disclose the rational applicability of mind within the frame work of Section 213 (b) of Companies Act, 2013 to justify the issuance of notice to the Director of Enforcement Directorate, to place the tracking information on record, coupled with the fact that it didn't justify the provisions contained under Section 213 (b) of the Companies Act, 2013, it doesn't justify passing of the order without hearing the appellant. Owing to the fact that in the order impugned itself, since no reasons have been recorded nor the arguments of the appellant have been considered, the order is bad in the eyes of the law, being apparently in violation of the principle of natural justice and perverse. Exclusively on that limited count, the company appeal would partly succeed and the order dated 12.12.2025 as passed by the Ld. NCLT, New Delhi so far as it relates to the directions contained in paragraph (iv) passed in relation to TP/26(KB)2025 would stand quashed. The matter is remitted back to the Ld. National Company Law Tribunal, Kolkata Bench, Court III to reconsider the entire conspectus of the proceedings of TP/26(KB)2025 and

after considering the respective contentions of the parties, as well as the implications that would be flowing from the provisions contained under Section 213 (b) of the Companies Act, 2013, and then only to pass the necessary order, if any, if it is required to be passed under law. Subject to the aforesaid exception, the impugned order **would stand quashed**, leaving it open for the Tribunal to act according to the directions given above.

20. In the connected company appeal i.e. **Comp. App (AT) No. 137 of 2026**, the appellant questioned the impugned order dated 13.02.2026, which was, yet again, an order passed by the Hon'ble National Company Law Tribunal, Kolkata Bench, Court III in Transfer Petition No. 26(KB)2025 whereby the Ld. NCLT has directed the Registry of the Tribunal to issue notices to the Enforcement Directorate, as well as to CBI, by the directions as they have been contained in the order are contained in paragraph (vii) which is extracted hereunder:

> *"vii. The Registry is directed to issue notice to Enforcement Directorate, Bangalore, 3rd Floor, 'B'-Block, BMTC, Shantinagar, TTMC, K.H. Road, Shantinagar, Bangalore, Karnataka- 560027. Let the notice be sent by way of speed post and by e-mail and the Registry is directed to place the tracking information on record."*

21. By virtue of the observations made in paragraph (vii) of the impugned order, it was almost a similar direction that has been issued as it has been issued to the Enforcement Directorate, which has been the subject matter of the connected Comp. App (AT) No. 55 of 2026; hence, much deliberation is

not required to be made on the same because the challenge given to the said part of the order is almost on a similar ground as that dealt with by recording our observations pertaining to the procedural impropriety of issuing notices to the Enforcement Directorate, on the very first day without considering the stipulations of Section 213 (b) of the Companies Act, 2013.

22. Similarly, the directions contained in paragraph (viii) of the order dated 13.02.2026 which is extracted hereunder:

> *"viii. The Registry is directed to issue notice to CBI, Office of Supdt. of Police, No. 36, Bellary Road, Ganganagar, Bangalore-560032. Let the notice be sent by way of speed post and by e-mail and the Registry is directed to place the tracking information on record."*

23. In this part of the order, a notice has been issued to the CBI to place the tracking information on record. This observation too, as made in the orders, suffers from the same vices as having been passed in utter violation of the provisions contained under Section 213 (b) of the Companies Act, 2013 besides being in absolute disregard to the principles of natural justice, as the appellant was not heard on the issue of need of issuance of notice to ED prior to issuing notices to the CBI for furnishing the tracking information on record.

24. In almost both the circumstances, either in Comp. App (AT) No. 55 of 2026 or in the instant Comp. App (AT) No. 137 of 2026 since the nature of the order was calling for tracking information from the Enforcement

Directorate and that from the CBI, they will have civil consequences and will have an economic bearing also on the business of the company. It mandated that at least any order which casts a social stigma or which may have any adverse bearing so far as the business functioning of the appellant is concerned could have been passed only after hearing the appellant, and complying with the provisions of Section 213 (b) of the Companies Act, 2013, considering the stand taken in defense and recording the rationale by the Tribunal, who may accept or may not accept the stand of the appellant, and then only could have passed the order on merits. The passing of an order as per the whims and fancies, without attaching any rationality to it would be tantamount to be perverse in nature, which cannot be sustained. Hence, this part of the order contained in paragraph (iv) and (viii) of the impugned order dated 13.02.2026 in Transfer Petition No. 26(KB)2025 would also stand quashed.

25. For the purposes of exercising powers under Section 213 (b) of the Companies Act, 2013, which equally involved consideration in both the company appeals, it is always the satisfaction of the Tribunal that becomes necessary to activate the investigation into the company's affairs. The activation of the proceedings of investigation itself has to be such which could be only after providing an opportunity, such as recording the satisfaction to justify its initiation, and in the absence of both the elements being present, the orders cannot be sustained.

26. Since the Ld. Tribunal is already ceased with the proceedings, in Transfer Petition No. 26(KB)2025 under Section 73 (4) to be r/w Section 213 of the Companies Act, 2013 if the Ld. Tribunal feels that the tracking information was necessarily required to be placed on record, it will be open for the Ld. Tribunal to proceed to pass an appropriate order only after hearing the appellant. In that view of the matter, the impugned order would stand quashed, leaving it open for the Ld. Tribunal to pass a fresh order after providing an opportunity of hearing to the appellant in light of provisions contained under Section 213 (b) of the Companies Act, 2013 on the issue of issuance of the notices to the Enforcement Directorate and CBI for the purposes of placing the tracking information on record, and then only to consider and pass an appropriate order in accordance with law.

27. Subject to the aforesaid, the company appeals would stand allowed. The respective impugned orders dated 12.12.2025 and 13.02.2026 as passed in Transfer Petition No. 26(KB)2025 would stand quashed.

[Justice Sharad Kumar Sharma]
Member (Judicial)

[Arun Baroka]
Member (Technical)

[Indevar Pandey]
Member (Technical)

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