IN THE NATIONAL COMPANY LAW TRIBUNAL,

NEW DELHI, COURT – III

CP 62/ND/59/2024

Under Section 59 & 169 of the Companies Act, 2013

IN THE MATTER OF:

MR. SHUBH GAUTAM **... PETITIONER**

VERSUS

M/S KREZON SPECIALITIES PRIVATE LIMITED & ORS **...RESPONDENT**

Order Pronounced on: 15.10.2026

CORAM:

SHRI BACHU VENKAT BALARAM DAS,

HON'BLE MEMBER (JUDICIAL)

SHRI RAVINDRA CHATURVEDI,

HON'BLE MEMBER (TECHNICAL)

APPEARANCES:

For the Applicant	**:**	Mr. Sanjiv Sen, Sr. Adv., Mr. Gaurav Singh, Mr. Prahalad Balaji, Ms. Jharna Singh, Ms. Simran Gupta, Mr. Karan Sharma, Mr. Sagar Chaturvedi, Ms. Anupriya , Ms. Anjali Singh, Advs
For the Respondent(s)	**:**	Mr. Arijit Prasad Sr. Adv., Mr. Sahil Tagotra, Mr. Girish Tripathi, Mr. Deepak Kumar, Ms. Ankita Singh, Mr. Pankaj Pandey, Mr. Digvijay, Mr. Ashish Yadav, Ms. Shreya Kasera, Advs.
For the C.D.	**:**	Mr. Aditya Singh, Ms. Shreya Chandok, Advs.

Date of Order: 15.10.2026

ORDER

PER: BACHU VENKAT BALRAM DAS, MEMBER (JUDICIAL)

1. The present Company Petition is filed under Section 59 and 169 of the Companies Act, 2013, against the illegal transfer of 7700 shares of the Petitioner, i.e., Shubh Gautam, by the Respondents and illegal removal of the Petitioner from the post of the Director of the Respondent Company, i.e., M/s Krezon Specialities Private Limited. The petitioner seeks the following prayers:

> " *A. To declare that the impugned transfer of 7700 shares in favour of the 3rd Respondent as illegal, null & void and not binding on the Petitioner;*
>
> *B. To direct the 151 Respondent Company to rectify the Register of Members with respect to 7700 shares in favour of the Petitioner retrospectively;*
>
> *C. To direct the Registrar of Companies, to invalidate the Annual Returns, Form MGT-7, Financial Statements, filed after 31.03.2018 to till date;*
>
> *D. To declare the removal of the petitioner from the post of Director in the respondent company as illegal, null & void and consequently restore the original position of petitioner as director with the respondent no.1 company as he was never removed from the post of Director retrospectively;*
>
> *E. To de-register the approved DIR 12 for the illegal removal of the petitioner from the post of director vide SRNt96613096 dt.21.04.2022;*

F. Restore the name of the Petitioner as Director in the MCA portal maintained by the Respondent no.4 retrospectively;

G. Removal of Respondent No.3 from the post director, who has been appointed illegally on the basis of fraud and through unlawful means;

H. Disqualify Respondents No.2 & 3 from holding office of Directors in any company including Respondent no.1 company for their acts of dishonesty, cheating, criminal breach of trust and fraud;

I. Pass such other and further orders as this Hon'ble Tribunal deems fit and proper in the interest of justice."

2. It is submitted that Respondent No. 1, M/s Krezon Specialities Private Limited, was incorporated on 26.07.2012. The Petitioner, Mr. Shubh Gautam, held 7,700 equity shares constituting 77% of the paid-up share capital of Respondent No. 1, and Respondent No. 2, Ms. Neetika Suryawanshi, held 2,300 equity shares constituting 23% of the paid-up share capital of Respondent No. 1.

3. It is submitted that the Petitioner invested an amount of Rs. 62,50,000/- (Rupees Sixty-Two Lakhs Fifty Thousand Only) in Respondent No. 1 as loan/investment, which was duly reflected in the books of accounts of Respondent No. 1 as short term borrowings as stated in the Independent Auditor's Report for the purchase of property in question.

4. It is submitted that Respondent No. 1 purchased an apartment bearing Unit No. CCI-101, Crescent Court Tower 1, Jaypee Greens, Greater Noida, in October 2012 in its own name, utilizing the funds invested by the Petitioner; the provisional allotment letter of the said apartment was issued at the address of the Petitioner's company, namely C-15 and C-16, Sector-63, Noida; the possession of the said apartment was taken by the Petitioner on 02.03.2013, as evidenced by the Possession Letter dated 02.03.2013; the

said apartment is the only valuable asset of Respondent No. 1, which was valued at Rs. 3,00,00,000/- (Rupees Three Crores Only) in the year 2017 and is now valued at more than Rs. 5,00,00,000/- (Rupees Five Crores Only). R2 has been illegally occupying the same since 2012 without any rent agreement with the company.

5. Respondent No. 2, being a qualified Chartered Accountant, was associated with the Petitioner's company, namely M/s American Precoat Speciality Private Limited (formerly known as M/s Sriram Compounds Pvt. Ltd.), as a Chartered Accountant since 2011. She being aware of the fact that the Petitioner was not in India from 25.07.2017 to 06.08.2017, transferred 7,700 equity shares of Respondent No. 1, constituting 77% of the shareholding of the Petitioner in favour of Respondent No. 3 on 05.08.2017,

6. It is further submitted that the aforesaid transfer of 7,700 shares was made for a consideration of Rs. 77,000/- (Rupees Seventy-Seven Thousand Only), which amount was transferred to the Petitioner's bank account without his knowledge and consent while he was travelling abroad.

7. It is submitted that as Respondent No.2 was a CA in the Company of the Petitioner, she had access to important documents of the Petitioner and his company. It is submitted that the blank and signed "Securities Transfer Form SH-4" was entrusted to Respondent No. 2 to enable her to pledge/issue such shares and raise further capital for the growth of Respondent No. 1, and it was her duty to keep the said document safe in the Petitioner's office being the trusted Chartered Accountant.

8. It is submitted that 77% of the value of the apartment was approximately Rs. 2.3 Crores in 2017. However, the consideration received by the Petitioner was only Rs. 77,000/-. It is further submitted that the share certificates of the shares which are purported to be transferred remained in the custody of the Petitioner.

9. It is submitted that the aforesaid fraudulent transfer was discovered by the Petitioner on 19.03.2021 while going through Form No. MGT-9 filed by Respondent No. 1 for the Financial Year ended 31.03.2019. Upon discovering the fraudulent transfer of his 7,700 shares on 19.03.2021, the Petitioner immediately returned the said amount of Rs. 77,000/- with interest and transferred a sum of Rs. 1,00,000/- (Rupees One Lakh Only) to the account of Respondent No. 3 on 19.03.2021

10. It is further submitted that Respondent No. 2 unilaterally appointed Respondent No. 3 as an Additional Director of Respondent No. 1 on 26.03.2018 without calling for any Extraordinary General Meeting and without informing the Petitioner, (who was then a Director of Respondent No. 1). It is further submitted that the designation of Respondent No. 3 was subsequently changed to Director on 29.09.2018; for which no Board Resolution signed by both the then existing Directors, namely the Petitioner and Respondent No. 2, was ever passed to authorize the induction of Respondent No. 3 as a Director of Respondent No. 1.

11. It is further submitted that the Petitioner was removed from the post of Director of Respondent No. 1 Company, on 01.02.2022 by Respondent Nos. 2 and 3 by holding an Extraordinary General Meeting without issuing or serving any notice of such meeting to the Petitioner. It is further submitted that Form DIR-12 dated 21.04.2022 was filed by Respondent No. 1 Company regarding the removal of the Petitioner from the post of Director. It is submitted that the Petitioner came to know about his removal from the post of Director only in May 2022 upon coming across Form DIR-12 dated 21.04.2022.

12. It is submitted that Respondent Nos. 2 and 3 have been occupying the apartment bearing Unit No. CCI-101, Crescent Court Tower 1, Jaypee Greens, Greater Noida, since 2012 without any rent agreement with Respondent No. 1. It is further submitted that Respondent No. 2 and 3 never commenced any business activity of Respondent No. 1 since the purchase

of the said apartment, which was purchased with a motive to carry on the business activities. Thereafter, the aforementioned property was used the benefit of Respondent no. 2 and 3.

13. It is submitted that the transfer of 7,700 shares is not in compliance with the provisions of Section 56(1) and Section 56(4)(c) of the Companies Act, 2013 and Articles 7, 8 and 31 of the Articles of Association of Respondent No. 1 Company. The aforementioned articles are extracted hereunder:

> *"…7. Any member desiring to sell any of his. shares must notify the Board of Directors of the number of shares, the fair value and the name of the proposed transferee and the Board of Directors must offer to the other shareholders the shares offered at the value at if the offer is accepted, the shares, shall be transferred to the acceptor and if the shares or any of them are not so accepted within one month from the date of notice to the Board of Directors the member proposing transfer shall, at any time within three months afterwards, be at liberty, subject to Article 8 and 9 hereof, to sell and transfer the shares to any person at the same or at higher price. In case of any dispute, regarding the fair value of the shares it shall be decided and fixed by the Company's Auditor whose decision shall be final.*
>
> *8. No transfer of shares shall be made or registered without the previous sanction of Directors, except when the transfer is made by any member of the Company to another member or to a member's wife or child or children or his heirs and the Directors may decline to give such sanction without the assigning any reason, subject to Section 111 of the Act.*
>
> *….*
>
> *….*
>
> *….*

33. The company may by ordinary resolution of which special notice has been given in accordance with the provisions of Section 190 of the Companies Act, 1956 remove any Director including the Managing Director, if any, before the expiration or:the period of his office, notwithstanding anything contained or in any agreement between the company and such Director, such removal shall be without prejudice to any contract of service between him and the Company."

14. It is submitted that the petitioner was also victim of illegal removal from the post of Director by the Respondents on 01.02.2022 by playing the fraud, cheating, criminal breach of trust, etc. which is against the provisions of the Companies Act, 2013 and also not in consonance with the Article of Association of the Respondent Company.

15. It is submitted that in the annual return Form MGT-7 submitted with the Registrar of Companies, the shareholding pattern of Respondent No. 1 as on 31.03.2022 is shown as under:

    (i) Neetika Suryavanshi – 2,300 shares;

    (ii) Naivedhya Suryawanshi – 7,700 shares; total – 10,000 shares; Respondent Nos. 2 and 3 are currently the only Directors of Respondent No. 1, and both are illegally holding the position of Directors of Respondent No. 1.

16. That vide order dated 10.08.2026, the petitioner was directed to file an affidavit explaining as to whether any RBI compliances and Income Tax compliances have been violated. In compliance of the aforementioned order the Petitioner has filed an affidavit stating the following:

    a. It is submitted that at the relevant time in 2017, the Petitioner held a valid U.S. Green Card and thus was the permanent resident of United State of America also classified as U.S. person and therefore, any transfer of his shareholding in any Indian company has to be carried in

accordance with the Regulations and procedures as per Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2000.

b. The relevant portion of The Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2000, Notification No. FEMA 20(R)/ 2017-RB dated 07.11.2017 as submitted by the Petitioner is extracted hereunder:

> ***"3. Restriction on issue or transfer of Security by a person resident outside India :-***
>
> *Save as otherwise provided in the Act, or rules or regulations made thereunder, no person resident outside India shall issue or transfer any security:-*
>
> *Provided that a security issued prior to, and held on, the date of commencement of these Regulations, shall be deemed to have been issued under these Regulations and shall accordingly be governed by these Regulations;*
>
> *Provided further that the Reserve Bank may, on an application made to it and for sufficient reasons, permit a person resident outside India to issue or transfer any security, subject to such conditions as may be considered necessary.*
>
> *.....*
>
> *.....*
>
> *.....*
>
> ***9. Transfer of shares and convertible debentures of an Indian company by a person resident outside India :-***

(1) Subject to the provisions of sub-regulation (2), a person resident outside India holding the shares or debentures of an Indian company in accordance with these Regulations, may transfer the shares or debentures so held by him, in compliance with the conditions specified in the relevant Schedule of these regulations.

(2) i) A person resident outside India, not being a non-resident Indian or an overseas corporate body, may transfer by way of sale, the shares or convertible debentures held by him to any person resident outside India:-

Provided that the person to whom the shares are being transferred has obtained prior permission of Central Government to acquire the shares if he has previous venture or tie up in India through investment in shares or debentures or a technical collaboration or a trade mark agreement or investment by whatever name called in the same field or allied field in which the Indian company whose shares are being transferred is engaged.

ii) A non-resident Indian or an overseas corporate body may transfer by way of sale, the shares or convertible debentures held by him or it to another non-resident Indian or an overseas corporate body only."

SUBMISSIONS ON BEHALF OF THE RESPONDENTS

17. It is submitted that the present petition is barred by Limitation as per Article 137 of the Limitation Act, provides for a time period of three years from the date from which the cause of action accrues. It is submitted that the cause of action arose on the day on which the petitioner is alleging the transfer of shares i.e., 05.08.2017, and the petition was filed on 19.03.2024. The impugned flat in question was registered in 2017 December.

18. It is submitted that that the Petitioner has no locus to object to the alleged filings of R-l company, as he is neither a Director, nor a shareholder of the company as on date.

19. It is submitted that the Respondent No. 2 was a Chartered Accountant who opened her consultancy services with the Petitioner in 2010. In 2012, the Petitioner offered to increase the scope of R-2's services and divided the agreed-upon fee into two parts; while one part was given to her every month, the other part was given to her as an interest-free advance.

20. It is submitted that the Petitioner gave Rs. 57 lakhs, but this was not an investment to buy 77% of the company. It was only an advance that was supposed to be adjusted against the fees of Respondent 2 wo had earned for her professional CA services, and against an interest-free loan she had given. It is further submitted that the company (Krezon Specialities) was formed mainly so that the flat could belong to R-2. It is submitted that the Petitioner was not the true 77% owner, and the transfer of shares to Respondent No. 3 was just part of this internal money adjustment, not a fraud.

21. It is submitted that the Respondent No. 2 has been in possession of the Company in question from the beginning, as evidenced by the election result of office bearers of the Managing Committee, Meetings of the Managing Committee dated 02.12.2015 and ledger reports of the flat's dues.

22. It is submitted that the Respondent No. 1 Company had been formed only for the purpose of the acquisition of the property in question, to the benefit of R-2. It is further submitted that at the time of the formation of the Company too, the entire share capital came from R-2.

23. It is submitted that in 2017, against a sale consideration of INR 77,000, the Petitioner transferred 7700 shares (77%) in the R-1 company to R-3 (husband of R-2) on 05.08.2017. Thereafter, the Petitioner handed over the original papers of the flat in question to R-2 as well. Eventually, the flat in question was registered in December 2017.

24. It is submitted that petitioner, continued to be a director in R-1 Company till 2022 and it is unbelievable that a person who is a Director of a Company, is unaware of its shareholding, and/or transfer of its majority shares (77%) for over four years, despite being at its helm of affairs.

25. It is submitted that after the transfer of the shares was completed, R3 became the sole shareholder of the R1 Company.

26. It is further submitted that R2 and R3, who are presently in possession of the flat in question, have been paying the entire maintenance and other upkeep amounts for the flat in question. This is evident from the ledger statement of the property in question. It is submitted that when R-2 and R-3 shifted to the property in question, the Petitioner himself signed a letter mentioning R-2 as the owner of the property in question.

27. It is submitted that the petitioner was removed from the position of Director in 2022. However, he curiously claims to not have been aware of the shareholding pattern of the company since 2017, at a time when he claims to have been an active participant in its affairs.

ANALYSIS AND FINDINGS

28. We have heard the submissions of the Learned Counsels appearing on behalf of the parties and perused the documents placed on record.

29. The petitioner has taken a stand that the transfer of shares is not in compliance with Section 56 of the Companies Act, 2013 and Articles of Association of the Company. At this juncture, it is necessary to reproduce the aforementioned provisions. The relevant portion of Section 56 of the Companies Act is extracted hereunder:

> *"(1) A company shall not register a transfer of securities of the company, or the interest of a member in the company in the case of a company having no share capital, other than the transfer between persons both of whose names are entered as holders of beneficial interest in the records of a depository, unless a proper instrument of*

transfer, in such form as may be prescribed, duly stamped, dated and executed by or on behalf of the transferor and the transferee and specifying the name, address and occupation, if any, of the transferee has been delivered to the company by the transferor or the transferee within a period of sixty days from the date of execution, along with the certificate relating to the securities, or if no such certificate is in existence, along with the letter of allotment of securities:"

Further, the relevant Articles of the Article of Association of the Company is extracted hereunder:

"…7. Any member desiring to sell any of his shares must notify the Board of Directors of the number of shares, the fair value and the name of the proposed transferee and the Board of Directors must offer to the other shareholders the shares offered at the value at if the offer is accepted, the shares, shall be transferred to the acceptor and if the shares or any of them are not so accepted within one month from the date of notice to the Board of Directors the member proposing transfer shall, at any time within three months afterwards, be at liberty, subject to Article 8 and 9 hereof, to sell and transfer the shares to any person at the same or at higher price.

· In case of any dispute, regarding the fair value of the shares it shall be decided and fixed by the Company's Auditor whose decision shall be final.

8. No transfer of shares shall be made or registered without the previous sanction of Directors, except when the transfer is made by any member of the Company to another member or to a member's wife or child or children or his heirs and the Directors may decline to give such sanction without the assigning any reason, subject to Section 111 of the Act.

….

....

....

33. The company may by ordinary resolution of which special notice has been given in accordance with the provisions of Section 190 of the Companies Act, 1956 remove any Director including the Managing Director, if any, before the expiration or the period of his office, notwithstanding anything contained or in any agreement between the company and such Director, such removal shall be without prejudice to any contract of service between him and the Company."

From the perusal of the above provisions it is apparent that requirements and procedures of the aforementioned Articles have not be complied with. Further, it is observed that a requirement of delivering the certificate relating to securities or letter of allotment within a period of 60 days from the date of execution of the transfer certificate to the Company has also not been complied with. Moreover, the respondent has not been able to produce on record any share certificate or a letter of allotment has to support the validity of the share transfer.

30. The date of execution of Form SH-4 (Securities transfer form) is 05.08.2017 and the same bears the signature of the petitioner, however, it is apparent from documents i.e. flight tickets and immigration stamps placed on records by the petitioner that he was outside India from 25.07.2017 to 06.08.2017 and hence, could not have executed Form SH-4 as he was not present in the country on the date of execution of the mentioned form which .

31. Further, it is pertinent to refer to a judgment of the Hon'ble Supreme Court in the case of **M/S. John Tinson & Co. Pvt. Ltd. & Ors. Vs. MRS. Surjeet Malhan & Anr.,** ETC. 1997 (9) SCC 651 Paras 7 & 8, wherein it is held that transfer of shares of a private limited company has to be done with the previous sanction of the Directors. The relevant portion of the aforementioned judgement is extracted hereunder:

"…It is now well settled legal position that Articles of Association of a private company is a contract between the parties. Clause (8) reads that "No transfer of any share in the capital of the company shall be made or registered without the previous sanction of the Directors..."

32. The necessary requirements of the aforementioned provisions/Articles and their respective compliance is reproduced below:

Provisions/ Articles	**Requirements**	**Compliance by Respondents**
Section 59 of Companies, Act	Delivery of certificate of shares or letter of allotment to the company.	Not complied.
Article 7 of AOA	Fair valuation of shares.	Not complied.
Article 8 of AOA	Mandatory previous sanction of the Directors before transfer of shares.	Not complied.
Article 33 of AOA	Mandatory service of special notice of the resolution requiring removal of Director.	Not complied.

33. In the present matter it is an admitted fact that the petitioner was removed from the position of the Director of the Respondent No. 1 Company on 01.02.2022 and it is alleged by the petitioner that no notice was served to

the him for his removal as a Director. It is a mandatory requirement under Section 169 of the Companies Act, 2013 that a special notice has to be served to the Directors of the Company. The respondents have failed to place on record any evidence showing that the Petitioner was duly served for the Extra-Ordinary General Meeting in which he was removed. Therefore, the removal of the Petitioner as a Director from the Respondent No. 1 Company is unlawful.

ORDER

34. In the light of the above facts and circumstances, the Company Petition bearing **CP-62/ND/59/2024** filed under Section 59 and 169 of the Companies Act, 2013, ***stands allowed***.

35. The Respondents are directed to take all necessary steps to restore Respondent No. 1 Company to the position as immediately prior to the transfer of shares effected on 05.08.2017.

36. The Registry is directed to send a copy of the Order to the parties concerned. No order as to costs.

Sd/- Sd/-

RAVINDRA CHATURVEDI
MEMBER (TECHNICAL)

BACHU VENKAT BALARAM DAS
MEMBER (JUDICIAL)