NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT – II
CHENNAI

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL, CHENNAI BENCH, HELD ON 03.11.2026 AT 10.30 A.M. THROUGH VIDEO CONFERENCING:

CORAM: SHRI. JYOTI KUMAR TRIPATHI, HON'BLE MEMBER (JUDICIAL)
SHRI. RAVICHANDRAN RAMASAMY, HON'BLE MEMBER (TECHNICAL)

APPLICATION NUMBER	**:**	**--**
PETITION NUMBER	**:**	**CP(CA)/96/CHE/2021**
NAME OF THE PETITIONER	**:**	**Nikhath Fathima**
NAME OF THE RESPONDENT(S)	**:**	**Maschmeijer Aromatics India Pvt Ltd & 4 Others**
UNDER SECTION	**:**	**Sec 58 of CA 2013**

ORDER

Present: Ld. Counsel for the Petitioner.

Vide separate order pronounced in open court, **CP(CA)/96/CHE/2021** is allowed.

Sd/-
RAVICHANDRAN RAMASAMY
Member (Technical)

Sd/-
JYOTI KUMAR TRIPATHI
Member (Judicial)

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IN THE NATIONAL COMPANY LAW TRIBUNAL, DIVISION BENCH – II, CHENNAI

CP (CA) 96/ (CHE)/ 2021

(Under Section 58 of the Companies Act, 2013)

In the matter of ***Maschmeijer Aromatics India Private Limited***

NIKHATH FATHIMA,
Residing at Old No.3, New No.7, Leith Castle, North Street,
Santhome, Chennai – 600 028**.**

… Petitioner

-vs-

1. MASCHMEIJER AROMATICS INDIA PRIVATE LIMITED,
Old No.3, New No.7, Leith Castle, North Street,
Santhome, Chennai – 600 028.
2. S. A. MOHAMED SHAREEF,
Residing at Old No 84, New No 32, Poes Garden, Chennai – 600 086.
3. S M SHAJAHAN,
Residing at Old No 84, New No 32, Poes Garden, Chennai – 600 086.
4. A. J. SUHAIL,
Old No.3, New No.7, Leith Castle, North Street,
Santhome, Chennai – 600 028.
5. SHAMSIA HABIBULLAH BADSHA (since deceased)
Old No.3, New No.7, Leith Castle, North Street,
Santhome, Chennai – 600 028.
6. MAIMOONA BADSHA,
Residing No.82A, 5-C, Awai Nagar, L.B.Road,
Tall Trees Apartments, Thiruvanmiyur, Chennai – 600 041.
7. HUMEIRA MUSSARETH BADSHA,
Residing at Old No.3, New No.7, Leith Castle,
North Street, Santhome, Chennai – 600 028.

…Respondents

Order pronounced on 03rd November 2026

CORAM

SHRI. JYOTI KUMAR TRIPATHI, MEMBER (JUDICIAL)

SHRI. RAVICHANDRAN RAMASAMY, MEMBER (TECHNICAL)

Present:

For Petitioner: *Harishanker Mani, Roshan Atiq M & Mohammed Wasif Khanf, Advocates*

For Respondent No. 2 & 3: *Arthi Fernandes, Advocate*
For Respondent No. 4 & 5: *Cibi Vishnu, S. Mukundan, P. Giridharan, & Dominic S David, Advocates*

ORDER
(***Hearing through hybrid mode***)

The present Company Petition has been filed under Section 58 of the Companies Act, 2013, seeking the following reliefs:

> "***v. Relief(s) Sought: -***
> *a) To direct the 1st Respondent Company to register the transfer of 87 Equity Shares of Rs.1000/- each held by Shamsia Habibullah Badsha, 5th Respondent, under Certificate Nos. 29,39,59,69,73,89,91 and Distinctive Nos. 1301-1326, 1726-1736, 1801-1820, 1606-1610, 1777-1785, 640-646, 1746-1755, in favour of the Petitioner and consequentially rectify the Register of Members of the 1st Respondent Company so as to substitute the name of the Petitioner in the place of Mrs. Shamsia Habibullah Badsha;*
>
> *b) To pass such other and further orders as the facts of the case require in the interests of justice and equity."*

2. SUBMISSIONS OF THE PETITIONER:

2.1. It is submitted that she is the daughter-in-law of the 5th Respondent, Late Mrs. Shamsia Habibullah Badsha, who held 87 equity shares of Rs. 1,000 each in the 1st Respondent Company and the 5th Respondent gifted the said shares to the Petitioner by Gift Deed dated 18.01.2021 and thereafter requested the Company to register the transfer in favour of the Petitioner.

2.2. It is submitted that the request for transfer was lodged with the Company along with the original share certificates, Gift Deed and Form SH-4, and the same was acknowledged at the registered office on 21.01.2021. The 4th Respondent, who was the Executive Director, also forwarded the request to the other Directors by email dated 21.01.2021, requesting that a Board Meeting be convened to consider the transfer.

2.3. It is further submitted that despite receipt of the necessary documents, the Company neither registered the transfer nor communicated any reason for refusal in accordance with Section 58 of the Companies Act, 2013 and Article 45 of the Articles of Association and also the proposed transfer does not contravene the agreement dated 07.06.1991 between the shareholders, as the transaction is between shareholders belonging to Group A and paragraph 8 of the agreement is not attracted.

2.4. It is also submitted that the petition is within the period of limitation prescribed under Section 58, as no notice communicating the reasons for refusal was issued by the Company.

3. SUBMISSIONS OF RESPONDENT NO. 2 AND 3:

3.1. It is stated that the Respondent No. 2 and 3 oppose the petition, contending that the Company could not register the transfer as the instrument of transfer in Form SH-4 was insufficiently stamped and the transaction involved undervaluation of shares and evasion of stamp duty. According to them, the transfer documents did not comply with Section 56(1) of the Companies Act, 2013, and Article 39 of the Articles of Association, which require a duly stamped, dated and executed instrument of transfer.

3.2. It is contended that the stamp duty paid on the share transfer form was calculated on the nominal value of the shares, whereas the Company's audited financial statements disclosed earnings of Rs. 4,925.05 per share of Rs. 1,000 for the financial year ended 31.03.2020 and therefore dispute the sufficiency of the stamp duty paid on the transfer instrument and the Gift Deed.

3.3. It is stated further rely upon earlier correspondence concerning the transfer and transmission of shares and contend that the Petitioner and the 4th Respondent had themselves failed to place the transfer requests of Respondent No. 2 and 3 before the Board and had kept the transmission of shares of a deceased shareholder pending.

3.4. It is alleged that the earlier requests concerning the shares in question were withdrawn in November 2020 and re-lodged in January 2021 to circumvent limitation and contend that the Petitioner is not entitled to discretionary relief under Section 58(5), particularly when she had allegedly denied similar relief to others.

4. SUBMISSIONS OF RESPONDENT NO. 4 AND 5:

4.1. It is stated that the Respondent No. 4, Mr. A.J. Suhail, the Petitioner's husband and Executive Director of the Company, filed a counter statement confirming that he had circulated the request for transfer received from the 5th Respondent to the other Directors by email dated 21.01.2021 and upon the communication requesting that a Board Meeting be convened to consider the transfer.

4.2. It is also stated that the compilation also contains correspondence concerning the earlier transfer request and its withdrawal, including the communication dated 25.04.2019 and the withdrawal letter dated 20.11.2020.

4.3. It is stated that the 5th Respondent, Late Mrs. Shamsia Habibullah Badsha, had earlier withdrawn a request concerning the transfer of shares by letter dated 17.11.2020. The material further records that the 5th

Respondent died on 16.10.2022, and the amended petition reflects her status as deceased.

5. SUBMISSIONS OF THE PETITIONER IN REJOINDER

5.1. In the rejoinder filed, the Petitioner disputes the objections raised by Respondent No. 2 and 3 regarding undervaluation and insufficiency of stamp duty.

5.2. It is submitted that the 87 shares were gifted without consideration and that the consideration for the transfer was therefore nil. Nevertheless, the Petitioner states that stamp duty of Rs. 218 was affixed to the share transfer form on the nominal value of the shares.

5.3. The Petitioner relies upon Section 21 read with Section 2(16B)(c) of the Indian Stamp Act, 1899, as amended, to contend that the market value of securities transferred otherwise than through a stock exchange or depository is determined by reference to the price or consideration mentioned in the instrument. Since the transfer was by way of gift and involved no consideration, it is contended that no stamp duty was payable on the basis asserted by the Respondents.

5.4. It is further submitted that the transfer instrument in Form SH-4 was duly executed and delivered to the Company and that there was no

violation of Section 56 of the Companies Act, 2013 and reiterates that the Company failed to register the shares or issue a notice of refusal, and consequently seeks the reliefs prayed for in the petition.

6. WRITTEN SUBMISSIONS OF THE PETITIONER

6.1. The Petitioner reiterates the prayer for registration of the 87 equity shares and rectification of the Register of Members and pointed out that the 5th Respondent gifted the shares during her lifetime by Gift Deed dated 18.01.2021 and subsequently requested the Company to effect the transfer.

6.2. It submitted that the Company failed to register the transfer or communicate any reason for refusal and submits that the transfer documents were complete and duly executed. In response to the objection concerning stamp duty, the Petitioner relies upon the provisions of the Indian Stamp Act relating to market value and contends that the gift involved nil consideration.

7. WRITTEN SUBMISSIONS OF THE RESPONDENTS

7.1. In the written submissions filed on behalf of the 3rd Respondent, it is contended that the petition is liable to be dismissed at the threshold because Section 56(1) of the Companies Act, 2013 prohibits registration

of a share transfer unless the prescribed instrument is duly stamped, dated and executed.

Reliance is placed upon Article 39 of the Articles of Association and ***Mannalal Khetan v. Kedar Nath Khetan, (1977) 2 SCC 424***, to contend that the requirement is mandatory and that the Company was legally precluded from registering an inadequately stamped transfer.

7.2. It is further submitted that the share transfer form was stamped on the basis of the face value of Rs. 87,000, whereas the Company's audited financial statements disclosed substantially higher earnings per share.

7.3. It is contended that the Gift Deed, executed on a non-judicial stamp paper of Rs. 500 without setting out the value of the shares, was also insufficiently stamped under the applicable provisions of the Indian Stamp Act. The Respondent disputes the Petitioner's contention that nil consideration exempts the transfer from stamp duty.

7.4. The 3rd Respondent also challenges the bona fides of the Petitioner and the 4th Respondent, relying upon the earlier withdrawal and re-lodging of transfer requests, the alleged failure to process the Respondents' own share-transfer requests and the pending transmission of shares of a deceased shareholder.

8. FINDINGS OF THE TRIBUNAL

8.1. We have heard the learned counsel appearing for the Petitioner and the Respondents and have perused the pleadings, documents and written submissions placed on record. The question that arises for consideration is whether the Company was justified in declining to register the transfer of 87 equity shares held by Late Mrs. Shamsia Habibullah Badsha in favour of the Petitioner, pursuant to the Gift Deed dated 18.01.2021.

8.2. It is not in dispute that Mrs. Shamsia Habibullah Badsha held 87 equity shares of Rs. 1,000 each in the Company. The share certificates corresponding to the said shares have been placed on record. It is also borne out from the material that, by a Gift Deed dated 18.01.2021, she intended to transfer the said shares in favour of the Petitioner.

8.3. The record further establishes that, on 21.01.2021, the transferor lodged the original share certificates, the Gift Deed and the instrument of transfer in Form SH-4 with the Company. The receipt of the said documents is admitted by Respondent Nos. 2 and 3 in their common reply. Respondent No. 4 has also confirmed the lodgment and the subsequent communication addressed to the other Directors requesting

that a Board Meeting be convened to consider the transfer. The transferor herself, in her counter affidavit, affirmed the execution of the Gift Deed and the lodgment of the documents and expressly sought registration of the transfer.

8.4. Thus, the execution of the Gift Deed and the lodgment of the transfer documents are not matters resting merely on the assertion of the Petitioner. They stand supported by the contemporaneous record and the statements of the transferor and the concerned Respondents. The material also establishes that the transfer was sought during the lifetime of the transferor. Her subsequent demise on 16.10.2022 does not, by itself, efface the transaction which had already been documented and lodged with the Company.

8.5. The principal objection of the Respondents is that the transfer documents were insufficiently stamped and, therefore, could not have been acted upon in view of Section 56(1) of the Companies Act, 2013. They rely upon the decision of the Hon'ble Supreme Court in ***Mannalal Khetan v. Kedar Nath Khetan, (1977) 2 SCC 424***, to contend that the statutory requirement of a duly stamped instrument is mandatory.

8.6. There can be no quarrel with the proposition that the requirements prescribed under Section 56(1) are mandatory. The provision does not permit a company to register a transfer of securities unless the prescribed instrument, duly stamped and executed by or on behalf of the transferor and transferee, is delivered to the Company along with the relevant share certificate or letter of allotment. The decision in Mannalal Khetan reinforces the mandatory nature of the statutory requirement. However, the question before us is not whether the requirement is mandatory, but whether the Respondents have established that the instrument lodged in the present case was, in fact, insufficiently stamped under the applicable law.

8.7. The Petitioner contends that the transfer was by way of a gift, without consideration, and that the instrument of transfer bears stamp duty of Rs. 218. The Respondents, on the other hand, contend that the duty ought to have been calculated on the alleged fair value of Rs. 4,925.05 per share, as reflected in the Company's financial statements, and not merely on the face value of Rs. 1,000 per share. They have also raised a separate objection with regard to the stamp duty payable on the Gift Deed.

8.8. We are of the considered view that the mere reference to a figure of Rs. 4,925.05 per share in the Company's financial statements cannot, by itself, conclude the question of the market value of the shares for the purpose of determining stamp duty. The Respondents were required to demonstrate the applicability of the relevant charging provision and the basis on which the said figure constituted the value chargeable under the applicable stamp law. A figure reflected in the financial statements, without establishing its statutory relevance to the instrument in question, cannot be treated as conclusive for this purpose.

8.9. Equally, the Petitioner's contention that the transaction being a gift necessarily attracts no stamp duty cannot be accepted as an absolute proposition without reference to the applicable provisions of the Indian Stamp Act and the relevant State amendments. The chargeability of the Gift Deed and the instrument of transfer must be determined with reference to the nature of each instrument and the applicable schedule. The fact that the transaction is without consideration does not, by itself, dispense with the statutory requirement of proper stamping.

8.10. In the present proceedings, however, the Respondents have not placed sufficient material to establish that the stamp duty affixed to the

instrument was deficient on the precise statutory basis asserted by them, or that the alleged value of Rs. 4,925.05 per share was the value required to be adopted for that purpose. Their objection, founded principally on the said valuation, cannot be accepted as a concluded determination of stamp deficiency. At the same time, the mandatory requirement under Section 56(1) cannot be diluted. Any deficit duty, if determined by the competent stamp authority under the applicable law, shall necessarily be made good before registration is effected. The direction for registration shall, therefore, remain subject to compliance with such statutory requirement.

8.11. The next objection relates to the Agreement dated 07.06.1991 entered into between the two groups of shareholders. The Respondents contend that the agreement restricts acquisition and transfer of shares between the groups and that the Petitioner, not being a signatory thereto, cannot claim the benefit of the arrangement selectively.

8.12. On examining the material placed before us, we find that the said agreement is an arrangement between the two groups of shareholders. The Respondents have not established that the restriction relied upon by them was incorporated into the Articles of Association of the Company

or that the Company was itself a party to the agreement. The transfer in question is stated to be between members belonging to Group A. Significantly, Respondent No. 4 has also affirmed that the transfer was within Group A and that Clause 8 of the agreement was not attracted to the transaction.

8.13. A private arrangement between certain shareholders cannot, merely by its existence, be elevated to a restriction enforceable by the Company in the exercise of its statutory powers, particularly where the restriction is not shown to have been incorporated into the Articles of Association. This does not preclude the parties to the agreement from asserting such contractual rights as may be available to them in appropriate proceedings. However, in the absence of a demonstrated restriction under the Articles or the applicable provisions of the Companies Act, the said agreement cannot furnish an independent ground for the Company to refuse registration of the present transfer.

8.14. The Respondents have also referred to earlier transfer requests made in 2019, which were subsequently withdrawn in November 2020, and contend that the fresh request made in January 2021 was intended to overcome the earlier developments and reset the limitation period. We

are unable to accept this contention. The earlier requests related to proposed transfers which were subsequently withdrawn. The present petition is founded on a distinct Gift Deed dated 18.01.2021 and the transfer documents lodged on 21.01.2021. The mere fact that an earlier proposal had been withdrawn does not invalidate a subsequent transaction, unless the Respondents establish some legal impediment to the latter. No such impediment has been demonstrated.

8.15. The allegation that the Petitioner and Respondent No. 4 had not facilitated the registration of certain other transfers sought by Respondent Nos. 2 and 3 also does not advance the Respondents' case. The validity and registration of those separate transfers are matters to be considered on their own facts and in accordance with law. Any grievance arising therefrom cannot be employed as a ground to defeat the Petitioner's present claim, which must independently satisfy the requirements of the Companies Act and the Articles of Association.

8.16. We also find that the Company has not produced any resolution of its Board of Directors refusing the transfer, nor has it placed on record any communication of refusal issued to the transferor or the transferee within the period contemplated under Section 58(1) of the Companies

Act, 2013. The Articles of Association, particularly Article 45, also contemplate communication of the decision refusing transfer within the stipulated period. The Respondents have admitted receipt of the transfer documents, yet the record does not disclose that the Company took a formal decision on the request or communicated any reasoned refusal within the prescribed time.

8.17. The statutory scheme under Section 58 does not contemplate that a company may indefinitely keep a duly lodged transfer request pending without taking a decision. Where the Board proposes to refuse registration, it is incumbent upon the Company to act in accordance with the statutory provisions and its Articles of Association. The reasons now advanced in the course of these proceedings cannot, in the absence of a contemporaneous decision by the competent authority of the Company, be treated as a substitute for the procedure contemplated under law.

8.18. The Respondents have sought to rely upon the alleged differences between the shareholder groups and the resulting deadlock in the functioning of the Board. Such internal differences cannot absolve the Company of its statutory obligations. The Company's obligation to

consider and decide a request for transfer cannot be made contingent upon the resolution of disputes between its shareholders or Directors.

8.19. Having regard to the admitted ownership of the shares, the execution of the Gift Deed, the contemporaneous lodgment of the transfer documents, the confirmation furnished by the transferor herself and the absence of a timely decision refusing registration, we are satisfied that the Respondents have not established any sustainable ground to defeat the Petitioner's claim. The objections founded on the 1991 agreement, the alleged undervaluation and the earlier withdrawn transfer requests do not, in the facts of the present case, justify the Company's continued failure to act upon the transfer request.

8.20. In view of the foregoing discussion, and subject to compliance with the applicable stamp-duty requirements, we are of the considered view that the Petitioner has made out a case for exercise of the jurisdiction vested in this Tribunal under Section 58(5) of the Companies Act, 2013. The Company cannot be permitted to perpetuate the non-registration of the transfer by keeping the request unresolved, particularly when the transferor had herself affirmed the transaction and sought its registration during her lifetime.

8.21. Hence, the Company is directed to take necessary steps to register the transfer of 87 equity shares held by Late Mrs. Shamsia Habibullah Badsha in favour of the Petitioner, pursuant to the Gift Deed dated 18.01.2021, and carry out consequential rectification in its Register of Members, subject to the Petitioner complying with any deficit stamp duty, if determined to be payable by the competent stamp authority in accordance with law. The Company shall complete the necessary formalities within the period stipulated in the operative portion of this order.

8.22. Accordingly, this company petition **CP(CA)96/(CHE)2021** stands **allowed**.

-Sd-	**-Sd-**
RAVICHANDRAN RAMASAMY	**JYOTI KUMAR TRIPATHI**
MEMBER (TECHNICAL)	MEMBER (JUDICIAL)