

Date: September 30, 2013

To,

The General Manager,  
Department of Corporate Services,  
BSE Limited,  
Phiroze Jeejeebhoy Towers,  
Dalal Street, Fort, Mumbai 400 001  
BSE Scrip Code: 513269

Dear Sir,

**Sub: Application under clause 24(f) of the Listing Agreement for the proposed Scheme of Arrangement between Man Industries (India) Limited ("Man Industries" or "the Company") and Man Infraprojects Limited ("Man Infraprojects") and their respective shareholders and creditors ("Scheme")**

**Ref: E-mails dated September 26, 2013**

In reference to the aforementioned matter please find enclosed the required documents as mentioned in aforesaid e-mails:

1. Revised Compliance Report on corporate Governance as per Annexure II of checklist enclosed as Annexure A.
2. Required Confirmation from the Company Secretary enclosed as Annexure B.
3. Clarification in reference to ESOP shares along with CLB order enclosed as Annexure C.

For Man Industries (India) Limited



Rishikesh Vyas

Group Company Secretary & Chief Compliance Officer

Encl: A/a

**Annexure A**  
**Compliance Report on Corporate Governance**

Name of the Company: Man Industries (India) Limited

Date: September 30, 2013

Particulars	Clause of Listing agreement	Compliance Status Yes/No	Remarks
<b>I Board of Directors</b>	49 I	Yes	
(A) Composition of Board	49 (IA)	Yes	
(B) Non-executive Directors' compensation & disclosures	49 (IB)	Yes	
(C) Other provisions as to Board and Committees	49 (IC)	Yes	
(D) Code of Conduct	49 (ID)	Yes	*Will be complied in the Annual Report for the financial year 2012-13
<b>II. Audit Committee</b>	49 (II)		
(A) Qualified & Independent Audit Committee	49 (IIA)	Yes	
(B) Meeting of Audit Committee	49 (IIB)	Yes	
(C) Powers of Audit Committee	49 (IIC)	Yes	
(D) Role of Audit Committee	49 (IID)	Yes	
(E) Review of Information by Audit Committee	49 (IIE)	Yes	
<b>III. Subsidiary Companies</b>	49 (III)		
<b>IV. Disclosures</b>	49 (IV)	Yes	
(A) Basis of related party transactions	49 (IV A)	Yes	
(B) Disclosure of Accounting Treatment	49 (IV B)	Yes	
(C) Board Disclosures	49 (IV C)	Yes	
(D) Proceeds from public issues, rights issues, preferential issues etc.	49 (IV D)	Yes	
(E) Remuneration of Directors	49 (IV E)	Yes	*Will be complied in the Annual Report for the financial year 2012-13
(F) Management	49 (IV F)	Yes	*Will be complied in the Annual Report for the financial year

			2012-13
(G) Shareholders	49 (IV G)	Yes	
V.CEO/CFO Certification	49 (V)	Yes	*Will be complied in the Annual Report for the financial year 2012-13
VI. Report on Corporate Governance	49 (VI)	Yes	*Will be complied in the Annual Report for the financial year 2012-13
VII. Compliance	49 (VII)	Yes	*Will be complied in the Annual Report for the financial year 2012-13

\* For holding annual general meeting, for the financial year 2012-2013, the Company has sought an extension of time limit from Registrar of Companies in accordance with the provisions of the Companies Act, 1956 and same has been granted by the Registrar of Companies.

For Man Industries (India) Limited



**Rishikesh Vyas**  
Group Company Secretary & Chief Compliance Officer

**Note:**

- 1) The details under each head shall be provided to incorporate all the information required as per the provisions of the Clause 49 of the Listing Agreement.
- 2) In the column No.3, compliance or non-compliance may be indicated by Yes/No/N.A. For example, if the Board has been composed in accordance with the Clause 49 I of the Listing Agreement, "Yes" may be indicated. Similarly, in case the company has no related party transactions, the words "N.A." may be indicated against 49 (IV A).
- 3) In the remarks column, reasons for non-compliance may be indicated, for example, in case of requirement related to circulation of information to the shareholders, which would be done only in the AGM/EGM, it might be indicated in the "Remarks" column as – "will be complied with at the AGM". Similarly, in respect of matters which can be complied with only where the situation arises, for example, "Report on Corporate Governance" is to be a part of Annual Report only, the words "will be complied in the next Annual Report" may be indicated.

**Annexure B**

Date: September 30, 2013

To,

The General Manager,  
Department of Corporate Services,  
BSE Limited,  
Phiroze Jeejeebhoy Towers,  
Dalal Street, Fort, Mumbai 400 001  
BSE Scrip Code: 513269

Dear Sir,

**Sub: Application under clause 24(f) of the Listing Agreement for the proposed Scheme of Arrangement between Man Industries (India) Limited ("Man Industries" or "the Company") and Man Infraprojects Limited ("Man Infraprojects") and their respective shareholders and creditors ("Scheme")**

In reference to the aforementioned matter with reference to transfer of Demerged Undertaking 2, we hereby confirm that:

a) There will be no change in Share Capital of the resulting/transferee Company till the listing of the equity shares of the company on BSE Limited.

b) The shares allotted by the resulting company pursuant to the Scheme shall remain frozen in the depositories system till listing/trading permission is given by the designated stock exchange.

Thanking you,

Yours faithfully,

For **Man Industries (India) Limited**

  
**Rishikesh Vyas**

**Group Company Secretary & Chief Compliance Officer**

**Annexure C**

Date: September 30, 2013

To,  
The General Manager,  
Department of Corporate Services,  
BSE Limited,  
Phiroze Jeejeebhoy Towers,  
Dalal Street, Fort, Mumbai 400 001  
BSE Scrip Code: 513269

Dear Sir,

**Sub: Clarification required in reference to Application under clause 24(f) of the Listing Agreement for the proposed Scheme of Arrangement between Man Industries (India) Limited (“Man Industries” or “the Company”) and Man Infraprojects Limited (“Man Infraprojects”) and their respective shareholders and creditors (“Scheme”)**

With reference to your e-mail dated September 26, 2013 we clarify that the 26,64,000 equity shares allotted to MIL Employee Welfare Trust have been cancelled pursuant to order of Company Law Board, Mumbai Bench, Mumbai (CLB) dated May 30, 2013. The order is enclosed for your reference.

The Complaint as mentioned in the letter enclosed becomes redundant as the Company has taken following steps for execution of the order:

1. The Company had filed E-Form No. 21 on vide SRN No. B76889765 for filing of order dated May 30, 2013 passed by Company Law Board (the CLB), Mumbai Bench, Mumbai.
2. The Company has informed the Stock Exchanges about the cancellation of ESOP allotment vide its letter dated June 4, 2013.

3. The shareholding pattern as on June 30, 2013 submitted to the stock exchange has been submitted after effecting the cancellation of ESOP allotment by the Company.
4. The financial results for the quarter ended on June 30, 2013 have been submitted after effecting the cancellation of ESOP allotment by the Company.

Thus, as the matter stands non-existent as on date, thus the complaint is of no relevance.

Thanking you,

Yours faithfully,

For **Man Industries (India) Limited**



**Rishikesh Vyas**

**Group Company Secretary & Chief Compliance Officer**

Encl: A/a

C.P. No. 72/397-398/CLB/MB/2012/ 603

31 MAY 2013

To:

1. Mr. Jagdish Chandra Mansukhani  
AAdhya Building, 2<sup>nd</sup> floor,  
Plot No. 43, Juhu, 10<sup>th</sup> Road,  
Laxmikant Pyarelal Chowk, Juhu,  
Mumbai - 400 049.
2. Mr. Ramesh Chandra Mansukhani,  
Aadhy Building, 1<sup>st</sup> Floor,  
Plot No. 43, 10<sup>th</sup> Road,  
Laxmikant Pyarelal Chowk,  
Juhu, Mumbai - 400 049.
3. Mrs. Sunila Chavan,  
Advocate,  
203, Nirdhar, 36 AB,  
Mugbhat Lane, Girgaon,  
Mumbai - 400 004.
4. M/s. K Ashar & Co.  
Advocates & Solicitors,  
Meadows House, 4<sup>th</sup> & 5<sup>th</sup> Floor,  
39, Nagindas Master Road,  
Fort, Mumbai - 400 001.
5. M/s. K. K. Associates  
12 Bake House,  
Chamber No. 307,  
2<sup>nd</sup> Floor, Nagindas Master Road,  
Fort, Mumbai - 400 025.
6. M/s. Kanga & Co.  
Advocates & Solicitors,  
Readymoney Mansion,  
43, Veer Nariman Road,  
Fort, Mumbai - 400 001.
7. Mr. Pralhad D Paranjape,  
Advocate,  
1<sup>st</sup> Floor, 44, Daday-Seth Building, 12,  
Cawasji Patel Street, Fort,  
Mumbai - 400 001.
8. M/s. T. N. Tripathi & Co.  
Advocates High Court Bombay,  
Parvatibai Building,  
2<sup>nd</sup> floor, 7-7A Piitha Street,  
Fort, Mumbai - 400 001.
9. M/s. Madekar & Co.  
Advocate,  
Engineer House, 1<sup>st</sup> Floor,  
86, Mumbai Samachar Marg,  
Fort, Mumbai - 400 023.
10. The Registrar of Companies,  
Maharashtra,  
100, Marine Drive, Everest"  
Mumbai - 400 002.

Sub: Petition Under Section 397-398 of the Companies Act, 1956 :-

Mr. Jagdish Chandra Mansukhani .....Petitioner.

V/s.

Mr. Ramesh Chandra Mansukhani & Ors. ....Respondents.

Sir,

With reference to the above, I am to forward herewith a certified Copy of order dated 30.05.2013 passed by Company Law Board, Mumbai Bench in the above case for further action.

Please acknowledge receipt of the same.

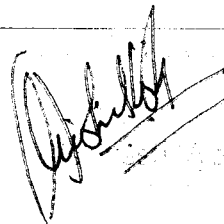
Yours faithfully,



(U. P. PARMAR)  
BENCH OFFICER

Encl: As above.

**Certified True Copy**



# COMPANY LAW BOARD, MUMBAI BENCH, MUMBAI

PRESENT: SHRI ASHOK KUMAR TRIPATHI  
MEMBER (JUDICIAL)

Attendance-cum-order sheet in the case of Mr. Ramesh Chandra Mansukhani & Ors.

CH No. 72/2012 w/s 397-398 DATE : 30.05.2013 TIME: 4.00 P M

SR. NO	NAME	DESIGNATION	SIGNATURE
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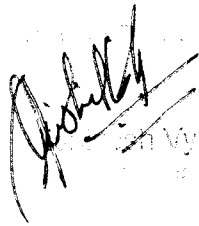
Judgment pronounced on a separate sheet. The order is as follows:-

## ORDER

1. It is declared that meeting of the Compensation Committee purportedly held on 15/10/2012 is illegal and their decision to allot 26,64,000 shares to ESOPS is non-est, ineffective and invalid being in contravention of the Undertaking tendered by the R6 Company through its Counsel before the Bench on 11/10/2012. Accordingly, the issue and allotment of impugned 26,64,000 shares in favour of the R16 (a) to (c) is hereby cancelled. The status-quo ante in respect of the shareholding pattern of the R6 Company, as it existed on 11/10/2012 is restored. The R6 Company and its present Board of Directors are directed to take steps accordingly. The ROC, Mumbai shall do needful to comply with the direction. However, it is clarified that this order shall not be treated as a permanent embargo in implementing the earlier decision of the company to allot and issue the shares to ESOPS and the Company may implement its decision in accordance with law after expiry of the period of Appeal, if no appeal is preferred against this order.
2. In case, the Petitioners offer to sell their respective shareholding, the Respondents shall be bound to purchase it within 90 days of the receipt of their offer in writing at the price per share which is being quoted in NSE/BSE on the date of receipt of such offer. In case, they refuse to purchase their shares and/or fail to purchase the shares within the stipulated period as directed above, the Petitioners shall be entitled to purchase the shareholding of the Respondents on the said value within 90 days in the same manner mentioned above.



True Copy

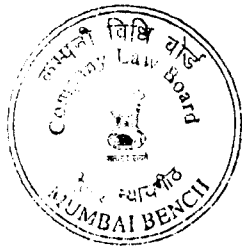
  
Ashok Kumar Tripathi  
Member (Judicial)



3. The Petitioners are free to act upon their notice thereby calling upon the EOGM. The R6 Company is directed to take necessary steps in accordance with law. The interim stay, if any, is hereby vacated.
4. The Respondents are granted liberty to act upon the resolution whereby they had resolved to terminate/ remove the Petitioner No.1 as Vice Chairman cum Managing Director of the R6 Company. Necessary steps may be taken in this regard by them. The interim order staying the removal of the Petitioner No.1 as Vice Chairman cum Managing Director of the Company is accordingly vacated. However, this direction is prospective in nature and the amount paid as salary + perks to the Petitioner No.1 under the direction of the CLB shall not be refundable.
5. The remaining reliefs sought for by the Petitioners are hereby declined.
6. No order as to costs.
7. C.P stands disposed off in the above terms. All the pending C.As stands disposed off. However, the Parties are granted liberty to seek clarification, if required, in the implementation of the directions, despite the C.P being disposed off.
8. Let the order be circulated to all concerned and another copy be sent to the ROC, Mumbai.

Sd/-  
**A.K.Tripathi**  
 Member (Judicial)

Dated this May 30, 2013.



CERTIFIED TO BE TRUE COPY

U.P. PARMAR, ICLB  
 Bench Officer  
 Company Law Board  
 Mumbai Bench

Dated: 31/5/13 201

**Certified True Copy**

[Faint signature and stamp area at the bottom of the page]

C.P. No. 72/397-398/CLB/MB/2012/ 603

31 MAY 2013

To:

1. Mr. Jagdish Chandra Mansukhani  
AAdhya Building, 2<sup>nd</sup> floor,  
Plot No. 43, Juhu, 10<sup>th</sup> Road,  
Laxmikant Pyarelal Chowk, Juhu,  
Mumbai – 400 049.
2. Mr. Ramesh Chandra Mansukhani,  
Aadhya Building, 1<sup>st</sup> Floor,  
Plot No. 43, 10<sup>th</sup> Road,  
Laxmikant Pyarelal Chowk,  
Juhu, Mumbai – 400 049.
3. Mrs. Sunila Chavan,  
Advocate,  
203, Nirdhar, 36 AB,  
Mughhat Lane, Girgaon,  
Mumbai – 400 004.
- 4 M/s. K Ashar & Co.  
Advocates & Solicitors.  
Medows House, 4<sup>th</sup> & 5<sup>th</sup> Floor,  
39, Nagindas Master Road,  
Fort, Mumbai – 400 001.
- 5 M/s. K. K. Associates  
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Chamber No. 307,  
2<sup>nd</sup> Floor, Nagindas Master Road,  
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43, Veer Nariman Road,  
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- 7 Mr. Pralhad D Paranjape,  
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1<sup>st</sup> Floor, 44, Daday-Seth Building, 12,  
Cawasji Patel Street, Fort,  
Mumbai – 400 001.
- 8 M/s. T. N. Tripathi & Co.  
Advocates High Court Bombay,  
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2<sup>nd</sup> floor, 7-7A Pitha Street,  
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Engineer House, 1<sup>st</sup> Floor,  
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- 10 The Registrar of Companies,  
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100, Marine Drive, Everest”  
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Mr. Jagdish Chandra Mansukhani .....Petitioner.  
V/s.  
Mr. Ramesh Chandra Mansukhani & Ors. ....Respondents.

Sir,

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Yours faithfully,



(U. P. PARMAR)  
BENCH OFFICER

Encl: As above.

# COMPANY LAW BOARD, MUMBAI BENCH, MUMBAI

PRESENT: SHRI ASHOK.KUMAR TRIPATHI  
MEMBER (JUDICIAL)

Attendance-cum-order sheet in the case of Mr. Ramesh Chandra Mansukhani & Ors.

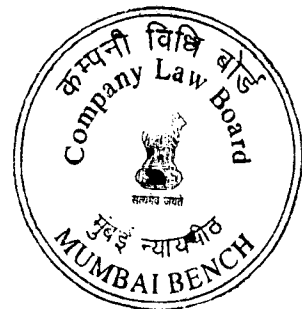
CP No. 72/2012 w/s 397-398 DATE : 30.05.2013 TIME: 4.00 P M

SR. NO	NAME	DESIGNATION	SIGNATURE
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Judgment pronounced on a separate sheet. The order is as follows:-

## ORDER

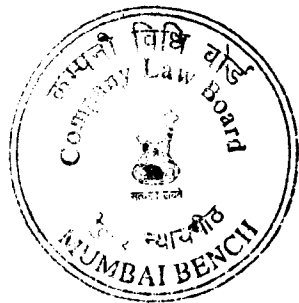
1. It is declared that meeting of the Compensation Committee purportedly held on 15/10/2012 is illegal and their decision to allot 26,64,000 shares to ESOPS is non-est, ineffective and invalid being in contravention of the Undertaking tendered by the R6 Company through its Counsel before the Bench on 11/10/2012. Accordingly, the issue and allotment of impugned 26,64,000 shares in favour of the R16 (a) to (c) is hereby cancelled. The status-quo ante in respect of the shareholding pattern of the R6 Company, as it existed on 11/10/2012 is restored. The R6 Company and its present Board of Directors are directed to take steps accordingly. The ROC, Mumbai shall do needful to comply with the direction. However, it is clarified that this order shall not be treated as a permanent embargo in implementing the earlier decision of the company to allot and issue the shares to ESOPS and the Company may implement its decision in accordance with law after expiry of the period of Appeal, if no appeal is preferred against this order.
2. In case, the Petitioners offer to sell their respective shareholding, the Respondents shall be bound to purchase it within 90 days of the receipt of their offer in writing at the price per share which is being quoted in NSE/BSE on the date of receipt of such offer. In case, they refuse to purchase their shares and/or fail to purchase the shares within the stipulated period as directed above, the Petitioners shall be entitled to purchase the shareholding of the Respondents on the said value within 90 days in the same manner mentioned above.



3. The Petitioners are free to act upon their notice thereby calling upon the EOGM. The R6 Company is directed to take necessary steps in accordance with law. The interim stay, if any, is hereby vacated.
4. The Respondents are granted liberty to act upon the resolution whereby they had resolved to terminate/ remove the Petitioner No.1 as Vice Chairman cum Managing Director of the R6 Company. Necessary steps may be taken in this regard by them. The interim order staying the removal of the Petitioner No.1 as Vice Chairman cum Managing Director of the Company is accordingly vacated. However, this direction is prospective in nature and the amount paid as salary + perks to the Petitioner No.1 under the direction of the CLB shall not be refundable.
5. The remaining reliefs sought for by the Petitioners are hereby declined.
6. No order as to costs.
7. C.P stands disposed off in the above terms. All the pending C.As stands disposed off. However, the Parties are granted liberty to seek clarification, if required, in the implementation of the directions, despite the C.P being disposed off.
8. Let the order be circulated to all concerned and another copy be sent to the ROC, Mumbai.

*Sd/*  
**A.K.Tripathi**  
Member (Judicial)

Dated this May 30, 2013.



CERTIFIED TO BE TRUE COPY

*U.P. Parmar*  
**U.P. PARMAR, ICLS**  
Bench Officer  
Company Law Board  
Mumbai Bench

Dated:.....*31/5/13*.....201

**BEFORE THE COMPANY LAW BOARD, MUMBAI BENCH, MUMBAI**

**Present : Shri Ashok Kumar Tripathi  
Member (Judicial)**

**C.P No. 72 of 2012**

**In the matter under Sections 397,398,  
r/w Sections 402, 403, 407 and 408  
and other relevant provisions of the  
Companies Act,1956.**

**In the matter of :**

**Mr. Jagdish Chandra Mansukhani & Ors ...Petitioners**

**Versus**

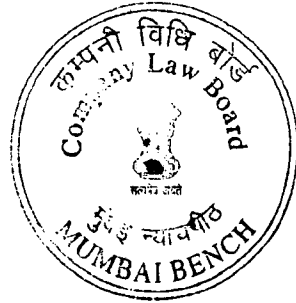
**Mr. Ramesh Chandra Mansukhani & Ors. .. Respondents**

**Petitioners:**

1. Mr. Jagdish Chandra Mansukhani
2. Mrs. Anita Mansukhani
3. Ms. Priyal Mansukhani
4. M/s JPA Holdings Pvt. Ltd.
5. Jagdish Chandra Mansukhani (HUF)
6. M/s Man Steel & Power Ltd.

**Respondents:**

1. Mr. Ramesh Chandra Mansukhani.(R1)
2. Mr. Nikhil Mansukhani (R2)
3. Mr. Kirit Damania (R3)
4. Mr. A.V.Ramamurti (R4)
5. Mr. Pramod Tandon (R5)
6. M/s Man Industries (India) Ltd.(R6)
7. M/s Man Infraprojects Ltd. (R7)
8. M/s Man Global Ltd. (R8)
9. M/s Man Overseas Metal DMCC (R9)
10. M/s Merino Shelters Pvt. Ltd.(R10)
11. Mr. H.S. Bedi (R11)
12. Mrs. Heena Kalantri (R12)
13. Mrs. Deepa Mansukhani (R13)
14. M/s Man Finance Ltd. (R14)
15. M/s Rohira Mehta & Associates (R15)
- 16(a) Mr. Devidas Kambale (R16)
- 16(b) Mr. Pramod Kumar Tandon (R17)
- 16 (c) Mr. Annavarapu Venkat Rammurty (R18)-



**COMPANY LAW BOARD, MUMBAI BENCH, MUMBAI**

**Counsel Present on behalf of the Parties :-**

1. Mr. Navroz Seervai Sr. Advocate a/w Mr. Zal Andhyarujina Advocate, Ms. Pratiksha Mody and Mr. Akhilesh Singh Advocates i/b K. Ashar & Co. for the Petitioners.
2. Mr. Dipan Merchant Sr. Advocate, a/w Mr. Phiroze Colabawala Sr. Advocate i/b M/s Madekar & Co., Advocates for Respondent Nos. 1, 2, 12 and 13.
3. Mr. Mayur Khandeparkar i/b Mr. Pralhad Paranjape Advocate for Respondent Nos. 3, 4 and 5.
4. Mr. Snehal Shah Advocate a/w Ms. Deepti Panda and Mr. Atul Desai Advocate, i/b M/s Kanga & Co. Advocates for Respondent Nos. 6, 7, 9, and 10
4. Mr. Paritosh Jaiswal Advocate i/b M/s T. N. Tripathi & Co., Advocate for Respondent Nos. 8 and 14.
5. Ms. Sunila Chavan Advocate for Respondent No. 15
6. Mr. Chetan Kapadia Advocate i/b M/s K.K. Associates Advocate for Respondent Nos. 16 (a) to (c).

**JUDGMENT**

(Reserved on March 26, 2013)

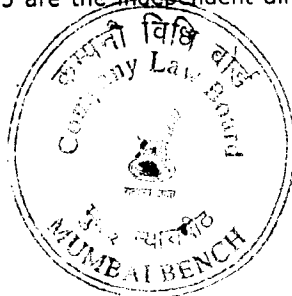
(Delivered on May 30, 2013)

1. The Petitioners have filed this petition under Sections 397, 398, read with Sections 402, 407 and 408 of the Indian Companies Act, 1956 (hereinafter referred to as "the Act" in brief) alleging certain acts of oppression and mismanagement in the affairs of the R6 Company by the Respondent Group consisting of R1 to R5, R11 to R15. The Petitioners have sought various reliefs as contained in the relief clause of the Petition.

2. The brief facts as set out in the petition are as under:-

2.1 The Petitioner No.1 and the Respondent No.1 are the real brothers and the sons of Late Mr. J. L. Mansukhani. Petitioner No.2 is the wife of Petitioner No.1 and Petitioner No.3 is their daughter. Petitioner Nos. 4 to 6 are also the Promoters and shareholders alongwith the Petitioner No.1 to 3 in the R6 Company and they together hold 1,64,62,335 equity shares aggregating to 28.83% of the issued, subscribed and paidup share capital of the R6 Company as on 24/09/2012. As on date, the Petitioner No.1 is and continues to be a Director of the R6. The Petitioner No.1 was also Vice Chairman and Managing Director of the R6.

2.2 The R1 is the Chairman and director of the R6 Company and also director of R7, R8 and R10. R2 is the son of R1 and also the director of R6, R7, R8 and R10. R3 to R5 are the independent directors who alongwith the Petitioners and the R1



## COMPANY LAW BOARD, MUMBAI BENCH, MUMBAI

and R2 constitute the Board of Directors of R6. R7 is a 100% wholly owned subsidiary of R6 engaged in real estate business in and around Mumbai. R8 is a company incorporated, promoted and controlled by R2 alongwith their associate and family and is dealing with real estate business in and around Mumbai. R9 is subsidiary of the R6 Company, incorporated in Dubai and it is under the exclusive control and management of R1 and R2. R10 is a wholly owned subsidiary of R7 and is also engaged in real estate business. R8 is Plant Manager and Director Technical of R6 and its Anjar Plant. The R12 is the daughter and R13 is wife respectively of R1 and also share holders of R6 collectively holding 4.78% of the shares. The R14 is also major share holder of the R6 Company holding approximately 5% of the shares. R15 is a statutory auditor of the R6 Company since last several years. R16 (a) to (c) are the trustees of the trust purportedly established for the benefit of eligible employees of R6 Company pursuant to MIL Employee Stock Option Scheme.

2.3 The R6 was originally engaged in the business of aluminum extrusions and is permanently manufacturer of line pipes of world class repute. It appears that until 2008, the relation between the two brothers namely Mr. Jagdish Chandra Mansukhani (Petitioner No.1) and Mr. Ramesh Chandra Mansukhani (R1) were cordial and both of them were handling their respective charges entrusted to them with all devotion and dedication. The Petitioner No.1 was looking after the operations of marketing, procurement of materials and execution of orders etc. whereas the R1 was handling the financial and administrative management of the company. It seems that after induction of the R2 as a Director on the Board of Directors of the R7 and R10 on 4/04/2008, the differences between the two brothers started cropping up. The differences between the families of the two brothers were deepened further after the R2 was given more charges and was inducted as director in R7 and R10.

2.4 It is alleged that in the year 2010, the Petitioner No.1 was divested of his powers as Managing Director and the Vice Chairman due to his differences with the Respondent Group. Therefore, the Petitioners being aggrieved by the conduct of the Respondents ignoring their participation in the management and affairs of the R6 and R7 filed a Company Petition bearing No. 78 of 2010 against the Respondents before the CLB, Mumbai Bench, Mumbai alleging various allegations of oppression and mismanagement by the Respondents in the affairs of R6 Company and therein the Petitioners sought various reliefs. The said Petition was registered as C.P No. 78 of 2010. It was contested by the Respondents. However, the petition was dismissed by the then Ld. Member, CLB Mumbai vide his Judgment and Order dated 12/09/2011 holding that the Petitioners have miserably failed to prove the acts of the oppression and mismanagement

2.5 It is further noted from the record that after the dismissal of the said petition, the father of the Petitioner No.1 and R1 Mr. J. L. Mansukhani had passed



**COMPANY LAW BOARD, MUMBAI BENCH, MUMBAI**

away. After his death, in the last week of November, 2011 both the Petitioner No.1 and R1 made an attempt to sort out their differences by mutual discussions. Through a letter, the Petitioner No.1 regretted having filed the petition against the Respondent Group and now he had no grievances against the R1 and his son R2 and the other family members and promised to withdraw all the complaints filed by him based on incorrect factual statements and not to pursue them any more in future. In the said letter, he further expressed his desire to render his cooperation in an Appeal filed by the Company against the order dated 30/09/2011 passed by the Adjudicating Officer as well as in other pending matters.

2.6 However, it seems that the Petitioner No.1 felt humiliated further from the behavior of his brother (R1) and his son (R2) who was also inducted as director in the R6 Company in 2011. According to the Petitioners' case, the R1 and R2 were conducting the management and affairs of the R6, R7 and R10 to the exclusion of the Petitioner No. 1. They alongwith their associates were working in a manner which had caused and is still causing grave injury, damage and financial loss to the shareholders and other stakeholders of the R6 and R7. It is alleged that the R1 and R2 have utilized their fiduciary powers as Directors for their personal gains. It is further alleged that, the R1 and R2 have caused severe financial loss to the R6, R7 and R10 by siphoning money and diverting the same in the expansion of and acquisition of assets, by companies and concerns controlled and managed by the R1 and R2 and their families and their other associated companies and even in the R8 though there is a direct conflict of interest with the R7 which is the 100% subsidiary of the R6 Company.

2.7 The Petitioner No.1 further alleged that the independent Directors of the R6 are not independent in substance and it is the R1 alone who was /is in charge of compliance, drawing up and maintenance of statutory records. It is averred that so long as the valuable rights of the Petitioners were not being affected and the affairs of the R6 were being conducted in the manner which were not prejudicial to the interest of the Petitioners, the Petitioners had no reason to suspect their bona-fide and consequentially had no occasion to object to the non-independence of the alleged Independent Directors, i.e. the R3 to R5.

2.8 It is further alleged by the Petitioners that for a short while after the reappointment of Petitioner No.1 as a Vice Chairman and Managing Director, the function of the R6 remained smooth. But, since 2011 the R1 in connivance with R2 to R5 again by misusing his power started to siphon off its funds for their personal gratification. Having come to know the huge misappropriation of huge funds by the Respondent Group for their personal gain, the Petitioner No.1 was compelled to bring the financial irregularities to the knowledge of the various financial institutions who have given financial assistance to the R6 in the interest of the Company and its shareholders. The Respondent Group, therefore, in retaliation





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without adopting the due course of law again removed the Petitioner No.1 from the post of Managing Director cum Vice Chairman and also started acting to the detrimental interest of the Petitioners being shareholders. Hence this petition. In addition to the above, the Petitioners have further levelled the following charges upon the R1 to R5 alleging them the acts of oppression and mismanagement in the affairs of R6, R7 and R10.

**A. Manipulation in preparation of Minutes of the meeting of the Board of Directors dated 24/05/2012 and 1/07/2012 by R1 to R5.**

2.9 It is alleged by the Petitioners that the minutes of the Board Meeting of the R6 were and are still being incorrectly recorded by R1. Such minutes do not reflect and show the correct and true affairs of what has transpired actually in the Board Meeting. It is further alleged that despite objection raised by the Petitioners on number of times to rectify the minutes, the Respondents ignored their objections.

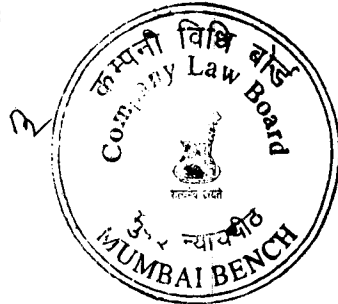
**B. Siphoning of the funds in disguised of the provisions of commission on exports in favour of non-existent and fictitious parties for Rs.14.35 crores:**

2.10 The Petitioners have made serious allegations against the Respondents giving the entire details in order to prove that the Respondents have siphoned huge amounts of funds in the shape of the commission payable to the Commission Agent based at foreign location. All such details shall be dealt with hereinafter.

**C. Sale of scrap at much lower prices which were not accounted for in books of accounts for about Rs.8 crores :**

2.11 It is alleged that the company being engaged in the business of manufacturing HSAW and LSAW pipes, huge amounts of MS scrap and Plastic and LD waste/ scrap is produced. Such waste is usually sold by the R6 in the local market. Since April, 2012, scrap generated in the company has been sold by the R1 and his representatives at far low value that it would have gained if it were sold at market price. This is because only part of the sale consideration has been recorded in the books whilst the balance amount was taken in cash by the R1 and his representatives, who illegally enriched themselves, causing heavy losses to the R6. The Petitioner No.1 made enquiries and learnt by comparing the rates of similar scrap being sold in the market that scrap sale at lower than market price was done at the behest of the R1 together with the Head of Anjar Plant, Mr. H.S.Bedi, the R11 through this modus operandi/ methodology, the R1 has caused huge loss of around Rs.8 cores to the R6 Company.

**D. Strike due to high handed and arrogant attitude of Plant Head with the workers with support of R1 to R5:**



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2.12 The Petitioners have also levelled a specific charge upon the Respondent No.11, Mr. H.S. Bedi and according to the Petitioners he is in hand and gloves with the R1 to R5. It is averred that the R6 suffered a strike of workers which the R11 failed to handle. Later on, it was learnt on enquiry that the strike was due to the misbehavior and misconduct of the R11 therefore the R11 was immediately removed from the charge of HRD. However, the R1 to R5 instead of taking any stern action against him reinstated him.

**E. Issue regarding code of conduct :**

2.13 It is next alleged by the Petitioners that he raised issues concerning management and made suggestions for amendment for code of conduct which gives unbridled powers to the R1 and R2 and it is in fact a tool in their hands to exclude the Petitioner No.1 from management of the R6 company. Moreover, in the absence of any code of conduct the Petitioners cannot take any action to check their misuse of powers. Despite discussion in the board meeting in this regard, the Respondents have not yet taken any cognizance.

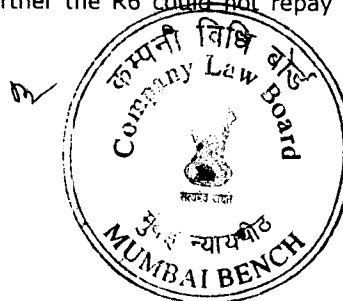
**F. Withholding of records of the R6 Company.**

2.14 It is alleged by the Petitioners that despite request being made time and again to furnish the signed and authenticated copy of the minutes of the Board meetings and committee from 2011 and onwards, the R1 & R2 with malafide intention did not provide the same to Petitioner No.1 and R1 has issued instructions to the employees of R6 not to provide any information to the Petitioners. It is alleged that withholding of the vital information from the Petitioner No.1 is complete disregard of his rights as director and shareholder of the company and has resulted in grave prejudice caused to the Petitioner. Therefore the conduct of the respondents lacks probity and fairness.

**G. Siphoning off funds:**

2.15 The Petitioners have also made allegations against the Respondents for siphoning off funds of the R6 Company through the Companies run by the family members of the R1. According to the Petitioners, M/s Man Global (R8) is a company in which R1 and R2 along Ms. Heena Kalantri viz. the R12, the daughter of R1 are the only Directors and the funds of the R6 are being diverted in this company.

2.16 It is further alleged that due to wrongful investment of about Rs.400 crores in the R7 and R10 and locking of funds during the period for 2007 to 2012, the R6 had to defer its payment of liability towards its creditors. As a result thereof the R6 had to pay approximately Rs.10/- extra for each dollar that has resulted in Foreign exchange loss of around Rs.100 crores. Further the R6 could not repay its FCCB



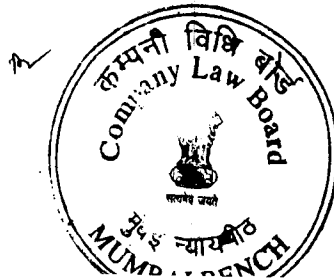
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borrowing of USD \$50 millions in May, 2012 and borrowed funds under the ECB route at much higher rate of interest in order to meet its liabilities. The above clearly reflects that wrong-decision of cash flow, forex planning by R1 has caused financial burden on R6 as stated above .

2.17 Petitioners have further alleged that in series of hasty transactions, the R1 and R2 sold out the office space situated at Excellanza, Vile Parle (W) having a built-up area 7,586 sq. ft. belonging to R7 in its project located at Man Excellanza, Vile Parle (W) to the R8 at an extremely low price. As per the market price prevailing at the relevant time, the property had a market value of approximately Rs.15,000/- per sq. ft. however, instead of realizing Rs.17.68 crores on the sale of this property, the R7 only realized Rs.11.38 crores because the size of the property was shown lower by Rs.4,000 sq. ft. not calculating the saleable area in the manner and normally in which areas were commercially calculated for other similar properties that were sold by the R7. In addition, the rate per sq. ft. at which the property was sold was much below the prevailing market rate. Thus, by charging a lesser rate and calculating a smaller saleable area than the commercially accepted norm, huge financial losses were caused by the R1 and R2. This was done for the financial benefit of the R8 and at the cost of the R7, a 100% subsidiary of the R6. The Petitioner No.1 vide its e-mail dated 6/08/2012 to the R1 stated that he had received a better offer which could be considered. In response to the said e-mail, the R6 informed the Petitioner No.1 that the prospective purchaser should be asked to meet marketing department of the R7 immediately. Accordingly, on 7/08/2012, the prospective purchaser (Mr. Chandu Khemani) submitted an offer dated 6/08/2012 and expressed his desire to pay 10% advance payment and 60% payment on signing of agreement and balance payment at the time of possession and occupation certificate. Instead of considering the said proposal seriously, the R1 and R2 through the secretary wrote an email to the Petitioner No.1 stating that deal for 6<sup>th</sup> floor of Man Excellenza stood concluded and that the buyer forwarded by the Petitioner No.1 was some estate broker and was not a serious buyer. According to the Petitioners case, when all these issues were raised, R2 resigned from the Board of directors of R7 without furnishing any satisfactory answer and avoided his responsibilities over the creditors and shareholders of R7. This further demonstrates a clear attempt of diversion of funds.

H. **Non execution of the agreement between the Petitioner No.1 and the Respondents :**

2.18 It is pleaded by the Petitioners that the in the AGM held on 23/12/2011 one of the special resolutions proposed was to appoint the Petitioner No.1 as Vice Chairman and Managing Director for a period of 5 years subject to approval of the Central Government and in terms of the provisions contained in Sections 198, 269, 309 and 310 read with Schedule XIII and other applicable provisions of the



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Companies Act 1956 ( including any statutory modification(s) or reenactment thereof, for the time being in force) and an agreement was to be executed between the Company and Petitioner No.1 for which a draft was prepared but the R1 to R5 deliberately and clandestinely did not allow the said resolution to be passed. Had this resolution been passed an agreement had been entered into, the R1 to R5 would not have been able to revoke the powers of Petitioner No.1 as Vice Chairman and Managing Director in the manner in which they did on 8/09/2012.

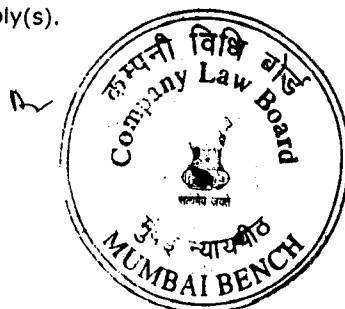
I. **Issue of Independent Directors :**

2.19 Challenging the independence of Mr. Kirit Damania, the R3, it is submitted that the R3 is not an independent director as per clause 49 of listing agreement, as the R3 provides consultancy services to the R6 and its subsidiary companies for which he is compensated monetarily and therefore has continuing vested financial interests. Therefore, he cannot be said as "independent Director". Similarly, other so called independent directors in fact are not independent and they work on the behest of the R1.

2.20. Before dealing with the reply filed by the Respondents, I would like to further point out that the Company Petition was filed on 11/10/2012. After hearing the Ld. Counsel for the respective parties I passed an interim order, the relevant part of which is under :-

*"The Ld. Counsel for the Respondents, however, undertakes on their behalf that until 19/10/2012 the Respondents shall maintain status quo in respect of the share holding as it exists today in respect of Respondent No.1 and Respondent Nos. 1 to 5 will not create any third party interest in respect of the property at Man Excellenza, Vile Parle (West), Mumbai. But Ld. Counsel for the Respondents Nos. 1 to 5 further clarified that the Respondents reserve their right to develop the said property."*

2.21 Subsequently on 17/10/2012 the Ld. Counsel for the Petitioners pointed out a typographical mistake in the order dated 11/10/2012. According to him, the R1 was wrongly typed in place of R6 and he therefore requested to correct the order accordingly. After hearing both the sides, I passed an order in presence of the Ld. Counsel for R3 to R5 rectifying the said mistake. Accordingly, in place of R1, R6 was substituted. It may be mentioned here that against this order no appeal has been filed. However, it was brought to my notice that on 15/10/2012 a Compensation Committee of the R6 allotted 26,64,000 equity shares to MIL Employees Welfare Trust. In view of the above, the said Trust was impleaded as Respondent No.16 in the array of the Parties through their trustees who have also appeared and filed their respective reply(s).



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2.22 It is further pertinent to note that in an Appeal filed by the Petitioners before the Hon'ble High Court under section 10F of the Indian Companies Act, this issue was raised and the Hon'ble High Court was pleased to pass an order on 17/02/2012. The relevant extract of the order is as follows:-

*"(a) In the event of the Appellants receiving any notice from the Company, calling for an AGM/EOGM of its shareholders, they shall give the requisite notice to the Appellants and upon receipt of the same, the Appellants shall be at liberty to move this Court for urgent reliefs by way of Company Application despite the Company Appeal being disposed of.*

*(b) The undertakings given by the Learned Advocate appearing for the Company that the Company shall not issue any bonus or right shares to its shareholders until further orders and that the shares issued to Respondent Nos.16 (a) to (c) shall also not be further transferred to any other party until further orders, are accepted,*

*(c) The parties shall file their pleadings as per the schedule fixed by the CLB, Mumbai and the Learned Member, shall proceed to hear the Company Petition as well as the Contempt Petition on 28-01-2013 and shall not grant adjournments to the Parties unless absolutely necessary.*

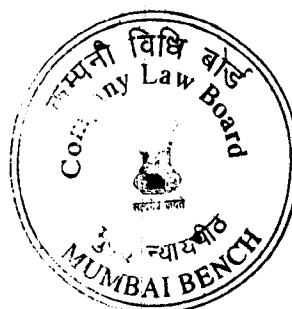
*The Appeal as well as the Company Application (L) No.64 of 2012 is accordingly disposed off.*

2.23 It may be mentioned here that the Petitioners in the course of arguments have also taken the said ground as acts of oppression and mismanagement.

2.24 It may also be mentioned here that during the course of proceedings, a Special Audit, on the direction of the Consortium of Banks who have extended the financial assistances to the R6, was also conducted by M/s Haribhakti & Co., the Chartered Accountants who have filed their reports holding various financial irregularities in the affairs of the R6. At the request of the Petitioners the said report was summoned. The Petitioners have also heavily relied upon the said report to prove their allegations regarding mismanagement in the affairs of the R6.

**Reply of R1**

3. The R1 appeared and filed an Affidavit in reply. In his reply the R1 has stated that since the commencement of the business the R6 Company has an uninterrupted profit making record and meeting its financial obligations. It is averred that the company's revenue was being growing and prospering. It is further stated that in these challenging times M/s Kobe Steel the Fourth large steel



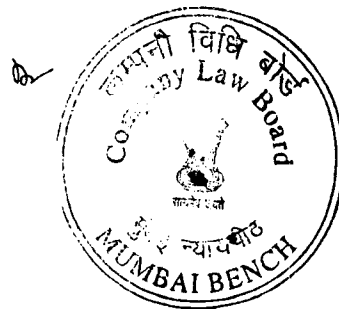
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company of Japan in the company's equity @ Rs.165/- per share which itself demonstrate the affairs of the company are being managed properly.

3.1. The R1 has further averred that the petition filed by the Petitioners is clearly motivated and has been filed with personal vendetta of the Petitioner No.1; that the Petitioner No.1 who himself was indulged into various activities against the interest of the company, the Company had removed him from the post of Managing Director cum Vice Chairman on earlier occasion; that the Petitioner No.1 alongwith others thereupon filed a company petition being C.P No. 78 of 2010 making false allegations of oppression and mismanagement by the Answering Respondent and others. In the said C.P the pleadings and the reliefs sought for were identical; that the said C.P was resisted by the Respondents and it was dismissed by the then Ld. Member, vide his order dated 12/09/2011 *interalia* holding that the Petitioners have failed to make out any case of alleged siphoning off funds and further held that all the allegations made by the Petitioners were baseless.

3.2 It is further pleaded that after the dismissal of the said petition, the Petitioner No.1 in his letter dated 23/11/2011 addressed to the Board of Directors of R6 conceded that all the allegations made by them were false and factually incorrect and he further assured that he would not repeat such mistakes in future. He further requested to give him an opportunity to work in the R6 Company. Upon his assurances he was reinstated as Managing Director cum Vice Chairman of the R6 by the Respondents. The Petitioners are therefore not entitled to raise any similar grievances in the present petition and they ought to be disregarded being barred by the principle of estoppel and res-judicata.

3.3 The R1 in his reply has further pointed out numerous financial irregularities and other illegal acts committed by the Petitioner No.1 during his tenure as the Vice Chairman and Managing Director of the company and stated that the Petitioner No.1 was held guilty by the SEBI insider trading case and was punished accordingly; that the Petitioner No.1 sold the Indore office of the company at a low price without seeking Board approval and also bought land for his own company by misusing the funds of the company; that the Petitioner No.1 also entered into numerous competitive activities against the interest of the company by promoting a company namely Steel Man FZCO, UAE; that the Petitioner also appointed ex-employees of the company promoted by him with intention to weaken the business of R6; that the Petitioner also wrote several false letters to the Bank against the interest of Company. Therefore, looking into the misconduct of the Petitioner No.1 alongwith other Petitioners, the petition is liable to be dismissed.



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3.4 It is further pleaded that the Petitioner No.1 has himself participated in the management of the Company until his powers were revoked on 8/09/2012. He was working as Member of the Audit committee and in that capacity he himself accepted the Directors' report and the report of the Audit committee on various occasion and did not raise any objection to any part of the accounts presented before the AGM and the general body. In the circumstances the Petitioner cannot now seek to challenge the very acts in which they have participated.

3.5 The R1 in his reply has further pleaded that the powers of the Petitioner No.1 as the Vice Chairman and the Managing Director of the company were revoked in accordance with law after affording an adequate opportunity of hearing and holding enquiry as per law, therefore he is not entitled to any relief prayed for.

3.6 In the reply, the R1 has also challenged the report prepared by M/s Haribhakti & Company and has also denied all the alleged acts of oppression and mismanagement alleged by the Petitioners.

3.7 The R1 has further averred that the Respondents have never violated the interim order dated 17/10/2012 and the allotment of shares in favour of the ESOS/ESOPS was made in pursuance to the earlier decisions taken by the Board of Directors of the R6 in presence of the Petitioner No.1 with his consent.

3.8 Based on the above pleadings the R1 has sought dismissal of the petition.

**Reply of R3 to R5**

4. On behalf of R3 to R5 a joint reply has been filed whereby they sought dismissal of the petition stating that the present petition is barred by the principle of res-judicata. It is stated that the Petitioners had made specific allegations in respect of alleged siphoning of funds in their earlier Company Petition being No.78 of 2010. Therefore, they are not entitled to re-agitate the issues which they have already canvassed in their previous company petition.

4.1 That there were specific allegations made by the Petitioners in relation to commission paid to agents which were mentioned as instances relating to alleged siphoning off funds in the earlier Petition. These allegations have been reiterated by the Petitioners in this Company petition. The Hon'ble Company Law Board was pleased to dismiss the earlier Company Petition with categorical findings that the monies which the Petitioners alleged to have been siphoned off were in fact utilized and/or spent for the benefit of R6 Company and its business affairs. In addition thereto, the Hon'ble Company Law Board had also rendered a categorical finding that the Board of Directors of R6 Company had powers under Article 138 of the



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Articles of Association to revoke/ withdraw/ alter any of the powers conferred upon the then Managing Director (i.e. Petitioner No.1). The entire factual narration and allegations mentioned in the present Company Petition are a mere repetition of what was stated earlier. Therefore, the present Company Petition is barred by the principles of res- judicata. The Petitioners cannot be permitted to re-agitate issues which have already been conclusively decided in the earlier proceedings. Admittedly, no appeal was filed by the Petitioners in relation to the order dated 12/09/2011 passed in Company Petition No.78 of 2010. Even otherwise, the instant company petition proceeds on the basis of certain events which have occurred prior to the hearing and final disposal of the said Company Petition No.78 of 2010 and therefore, those events cannot be agitated by the Petitioners in the present proceedings as the same would be barred by the principle of constructive res-judicata.

4.2 That the R4 and 5 were initially appointed as additional directors by the Board of Directors of the R6 Company on 14/02/2011. Thereafter, the appointments of R4 and R5 were reaffirmed at the Annual General Meeting on 23/12/2011 and thereafter on 27/08/2012 R5 was reappointment as an Independent Director of R6 company and R4 continued to be the Independent Director; that the Petitioner No.1 was a part of the Board of Directors and also present along with the other Petitioners at the time of the Annual General Meetings dated 23/12/2011 and 27/8/2012 at which time the said appointments of R4 and R5 were made; that at all material times, no complaint/grievance was made by Petitioner No.1. In fact, Petitioner No.1 on all the occasions voted in favour of the appointments of R4 and 5 and having done so, cannot now be permitted to raise any such grievances in that regard; that the R3 has been an independent Director of R6 Company since 11/07/1989; that the last appointment in relation to his Directorship was done at the Annual General Meeting held on 23/12/2011. Similarly, in the case of R3, Petitioner No.1 did not make any grievance or raise any note of dissent. However, Petitioner No.1 had made certain allegations against R3 in the earlier Company Petition No. 78 of 2010, which are similar to those made in the present Company Petition. However, the Hon'ble Company Law Board had not found favour with those allegations and answered the same in the negative against the Petitioners. In view thereof, the Petitioners cannot be permitted to re-agitate these grievances against R3.

4.3 It is further pleaded that the entire Company Petition does not contain any material particulars in relation to the allegations concerning acts of oppression and mismanagement against R3 to R5 or any other Respondents; that the Petitioners have proceeded to make reckless and baseless allegations against R3 to R5 without supporting any material particulars; that R3 to R5 are not involved in the day to





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day management of the Company and therefore the question of R3 to R5 allegedly mismanaging the affairs of the Company does not arise at all.

4.4 It is further stated that the R3 to R5 have been appointed as Independent Directors of R6 Company under the provisions of the Companies Act 1956 and/or the Articles of Association and clause No.49 of the Listing Agreement (Corporate Governance) in relation to the R6 Company; that the Petitioners have deliberately suppressed from this Hon'ble Company Law Board a letter dated 23/11/2011 addressed by him to the Board of Directors of the R6 Company; that at the relevant time, the composition of the Board of Directors included the R1 and the R3 to R5. By the said letter, the Petitioner No.1 had specifically stated that the allegations made against the Company and Board members were on account of his internal disputes and differences with the R1 and R2.

4.5 It is further averred that the Petitioner No.1 has also suppressed a material fact in relation to his membership of the Audit Committee of the R6 Company; that the primary role/objective of the Audit Committee is to review the financial statements of the R6 Company, strengthen internal control and look into all transactions having monetary implications on the functioning of the Company; that the Petitioner No.1 has been a member of the said Audit Committee for considerable period time and has attended five meetings held on 24/05/2011, 19/07/2011, 11/08/2011, 14/11/2011 and 7/02/2012 in respect of the annual year of 2011-212; that the Petitioner No.1 has attended the meetings of the Audit Committees on 31/07/2012. In addition thereto, Petitioner No.1 was a party to the resolution passed by the Board of Directors on 24/05/2012 adopting the audited accounts of the R6 Company for the year ending March, 2012; that the Petitioner No.1 also signed the Audited Accounts and Balance Sheet of R6 Company for the year ended 31/03/2012 without raising any note of dissent; that these audited accounts of the company were also supported and voted by Petitioner No.1 alongwith other Petitioners at the Annual General Meeting held on 27/08/2012 of R6 Company; that notwithstanding the aforesaid, the Petitioners have proceeded to make baseless allegations against R1 to R5 by their letter dated 20/08/2012 to the Bankers of the R6 Company. The Petitioner therefore cannot be permitted to approbate and reprobate in the aforesaid manner.

4.6 It has been further pleaded that they are not shareholders in the R6 Company and they have not committed any act of mismanagement in the affairs of the R6, R7, R9 and R10. It is further averred that they have not at any time worked at the behest of the R1 and R2 to their personal gain and vested interest and the allegations made by the Petitioners against them are baseless.

4.7 It is further pleaded that the powers of the Petitioner No.1 were revoked in consonance with the Articles of Association of the R6 Company read with the



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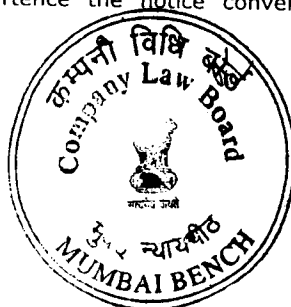
provisions of Companies Act and the R3 to R5 had any connivance with the other directors of R6 The R3 to R5 have also denied that the minutes of the Board Meetings were incorrectly recorded. They have also denied having siphoned off monies in the guise of making payment by way of commission to various Foreign or Off Shore entities as alleged.

4.8 The R3 has further denied that he at any point of time scuttled any discussion on the topic relating to code of conduct in any manner or otherwise. The R3 and R5 have denied having exercising having control and influence over the MIL Employees Welfare Trust and stated that they have at all material times discharged their duties in its best interest in the manner contemplated under the deed of MIL Employees Welfare Trust dated 3/10/2012. Based on the above they have prayed to dismiss the petition.

**Reply of R6**

5. On behalf of R6 Company, its Group secretary Mr. Rishikesh Vyas has filed reply. In its reply dated 15/10/2012, the R6 has stated that at a meeting of the Board of Directors of the R6 Company held on 5/09/2012 whereat Petitioner No.1 was present, it was *interalia* decided to implement the Employees Stock Option Scheme as per the shareholder's resolution passed in the year 2008 and Compensation Committee was formed by the Board of Directors; that in the present petition, Petitioner No.1 has not made any grievance about this decision and has not sought any reliefs thereto for this purpose; that pursuant to the resolution passed by the Board of Directors at its meeting held on 5/09/2012 the Scheme for Employees Stock Option was framed which was approved by the Compensation Committee on 27/09/2012, a Trust Deed was executed on 3/10/2012 by the Company as the Settlor; that in principle approval of Bombay Stock Exchange Ltd. For allotment of shares under ESOP was obtained on 10/10/2012 and from National Stock Exchange India Ltd. on 11/10/2012; that thereafter on 15/10/2012, 26,64,000 equity shares of R6 Company were allotted to MIL Employee Welfare Trust and the Scheme for Employees Stock Option is implemented.

5.1. The R6 in its further reply filed on 9/02/2013 has further pleaded that at the Annual General Meeting of the Company held on 26/09/2008 a Special Resolution was passed by the shareholders of the Company authorizing the Board of Directors to formulate and implement ESOS subject to the condition that the equity share to be offered under the ESOS would not exceed 5% of the paid up equity share capital of the Company as on 26/09/2008; that the Company thereafter filed the requisite return with the Registrar of Companies in relation to the aforesaid Special Resolution passed by the Shareholders of the Company; that however through oversight and/or inadvertence the notice convening the said Annual General

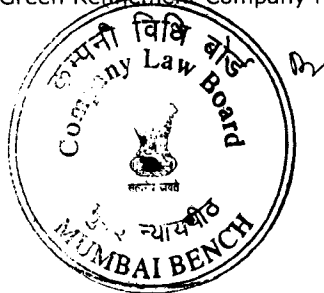


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Meeting held on 26/09/2008 stated that the Resolution to be passed was an ordinary resolution though as per the law and in effect a special resolution was passed and as stated above the return thereof, as required under the Companies Act, was filed with the Registrar of Companies; that at a meeting of the Board of Directors of the Company held on 5/09/2012, it was, interalia, decided to formulate and implement the ESOS as per the shareholder's resolution passed at the aforesaid Annual General Meeting held on 26/09/2008; that this was in view of the fact that the current year is the 25<sup>th</sup> year of incorporation of the Company. A Compensation Committee as required by the relevant SEBI Guidelines was formed by the Board of Directors to get the ESOS formulated and implemented; that the Petitioner No.1 was also present at the said meeting of the Board of Directors held on 5/09/2012; that a meeting of the Compensation Committee which consisted of Mr. Kirit Damania, Mr. Pramod Kumar Tandon and Mr. A. V. Ramamurti, three independent directors of the Company was held on 5/09/2012 where it was decided to get the ESOS prepared.; that thereafter, ESOS was drafted and it was approved by the Compensation Committee at their meeting held on 27/09/2012; that as contemplated under ESOS a Trust Deed was prepared which was executed by the Company as the Settlor and Mr. Pramod Kumar Tandon, Mr. Annavarapu Venkat Rammurthy and Mr. Devidas Kambale, as the Trustees of MIL Employees Welfare Trust. This Trust Deed was executed on 3/10/2012 and the same was registered with the Sub-Registrar of Assurances on 15/10/2012; that in the principle approval of Bombay Stock Exchange Limited for allotment of shares under ESOS was received by the Company on 10/10/2012 and from National Stock Exchange India Ltd. On 11/10/2012; thereafter on 15/10/2012, 26,64,000 equity shares of the Company were allotted to the Trustees of MIL Employees Welfare Trust pursuant to the resolution passed by the Compensation Committee.

5.2 Referring the audit report prepared by M/s Haribhakti & Co, Chartered accountants appointed by the Bankers to carry out a special audit, it is stated that the State Bank of India by its letter dated 1/01/2013 addressed to the Company had informed that the final audit report was not materially different from their first report, the findings of which were found by the consortium of bankers not to be material in nature. It was further informed that the banks have found no irregularities in the operation of the business and accounts of the company. Therefore, the allegations made by the Petitioners against the Respondent Group about the alleged mismanagement are baseless and liable to be dismissed.

5.3 The R6 has further pleaded that Petitioner No.1 himself with one Mr. Sanjeev Dheer who is no more in the employment of the Company and now has joined as director of M/s Steel Man Global Sourcing Co. promoted and controlled by Petitioner No.1 got reduced an order of line pipes agreed to be supplied and delivered to M/s Green Refinement Company from 110 km to 55 km. The remaining



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55 km was diverted to the said M/s Steel Man Global Sourcing Co., which clearly demonstrate the misconduct of the Petitioner No.1 by entering into a competitive business with the business of the R6 Company.

5.4 It is pertinent to mention here that after conclusion of final arguments while the case was kept reserved for the judgment on 8/04/2013 reply came to be filed on behalf of R16 (a) to (c) vide diary No. 236. The same was kept on record.

5.4 Based on the above pleas R6 has prayed to dismiss the petition.

6. The Petitioners have also filed rejoinder to the replies on 1/11/2012 and 11/01/2013. The R1 has filed a sur-rejoinder and have also filed further affidavits. An Affidavit has also been filed on behalf of the R6 Company

**Description of Pending Applications**

7. In the instant petition the parties filed various company applications which are also required to be adjudicated alongwith the petition. The details of the pending C.A are as follows:-

**A. C.A No. 209 of 2012**

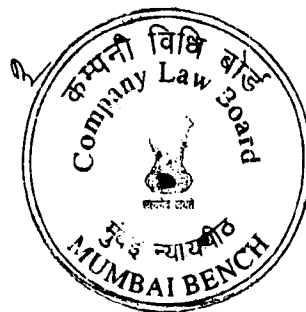
7.1 The above stated Company Application has been filed by the Petitioners praying therein to pass an order holding guilty the Respondents for committing violation of undertaking dated 17/10/2012 given by them to this Bench and to impose the maximum sentence for 6 months alongwith fine of Rs.2,000/- each. In addition to above, the Petitioners have also prayed to set aside the issuance and allotment of the impugned 26,64,000 equity shares by R6 to the R16 and to restore the status ante-quo as it existed prior to date of such allotment of shares.

**B. C.A No. 16 of 2013**

7.2 The above stated application has been filed on behalf of the Respondent Nos. 1 and 2 praying therein to pass an order thereby restraining the Petitioners from taking any steps in pursuance to the notices dated 15/01/2013 received from Petitioner No.1 thereby calling an extra ordinary general meeting under the provisions contained in Section 284 read with Section 190 of the Companies Act, for removal of directors.

**C. C.A No.17 of 2013**

7.3 The above stated application has been filed on behalf of the Respondent No.1 for punishing the Petitioners for committing violation of their undertaking given by them to this Bench on 19/12/2012 by which they had given an undertaking not to reveal / disclose the information or contents of the Auditor



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Report prepared by M/s Haribhakti & Company to any third party except their law officers.

**D. C.A No. 20 of 2013**

7.4 The above stated application has been filed on behalf of the R6 seeking permission to implement the resolution being Item No.12 of the Agenda of the Meeting of the Board of Directors held on 15/01/2013 whereby a decision has been taken for removal of the Original Petitioner No.1 as the Vice Chairman and Managing Director of the R6.

**E. C.A No.24 of 2013**

7.5 The above stated application has been filed on behalf of the Petitioner No.4 praying therein to vacate the interim order dated 24/01/2013 and to permit to hold the EOGM. It is further prayed that the R16, its trustees, servants, agents or assigns be restrained from in any manner whatsoever exercising any rights including voting rights in respect of impugned 26,64,000 equity shares of R6. It is further prayed that the Petitioner be allowed to share the copy of Supplementary Audit Report with the shareholders of the R6.

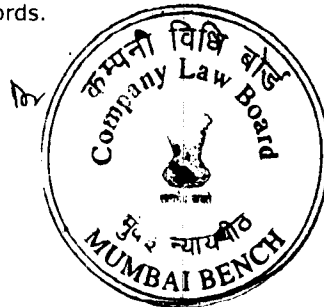
**F. C.A No. 29 of 2013**

7.6 The above stated application has been filed on behalf of the Petitioners against the R1 to R6 praying therein to pass an order thereby to punish the said Respondents for committing contempt of the order dated 24/01/2013 passed by this Bench by which they were directed to pay the salary and allowance of the Petitioner No.1 directly to him.

8. From the perusal of the record, it is noted that in addition to the above various applications bearing Nos. 196/2012, 202/2012, 218/2012, 242/2012, 7/2013, 25/2013 and 31/2013 were also filed by the respective Parties, but the prayers made in the said applications have either been already allowed or the prayers made therein are infructuous due to passage of time. I therefore, do not deem it appropriate to discuss the said applications in my judgment. However, the Company Applications A to F mentioned hereinabove shall be discussed as and when required in the finding part of the Judgment.

**Contentions & Findings**

9. I have heard the Mr. Navroz Seervai Ld. Sr. Counsel assisted by Mr. Zal Andhyarujina Advocate appearing for the Petitioners. I have also heard Mr. Dipan Merchant Ld. Sr. Advocate, Mr. Snehal Shah, Mr. Paritosh Jaiswal, Ms. Sunila Chavan and Mr.Chetan Kapadia, Advocates appearing for the respective Respondents. I have also examined the records.

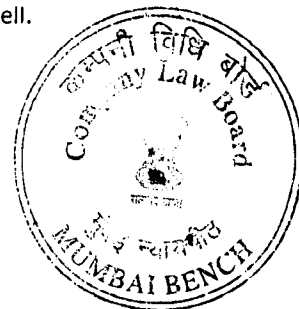


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10. Before I enter into the merits of the case, I would like to examine the preliminary objection raised by the Ld. Sr. Counsel for the Respondents thereby challenging the maintainability of the Petition. The Ld. Sr. Counsel for the Respondents contended that the present petition is not maintainable as it is barred by the principle of res-judicata and estoppel and thus liable to be dismissed on this ground alone. The Ld. Sr. Counsel has invited my attention to the pleadings of the Parties in previous petition being Company Petition No. 78 of 2010 filed by the Petitioners in the year 2010 which was dismissed by the then Ld. Member vide his Judgment and order dated 12/09/2011 for the reasons recorded therein. The said judgment is annexed as Exhibit "4" to the Petition. The Ld. Sr. Counsel for the Respondents has taken me through the said judgment which clearly refers to the allegations made by the Petitioners, the pleas raised by the Respondents in their defence and the issues formulated by the then Ld. Member and the findings given thereon, based on the contentions raised by the Ld. Sr. Counsels appearing for the respective parties and he submitted that on comparison of the sum and substance of the present petition and the earlier petition, it would appear that there is similarity in the pleadings and the reliefs prayed for are also identical. It is further pointed out that no Appeal was preferred by the Petitioners against the said Judgment/order. Therefore, the findings of the said judgment are binding on the Parties and the present petition is liable to be dismissed being barred by the principle of res-judicata as contained in Section 11 of the Civil Procedure Code.

11. In addition to above, the Ld. Sr. Counsel for the Respondents has further drawn my attention to a letter dated 23/11/2011 filed as Exhibit "4" to the Affidavit in Reply of R1 dated 18/10/2012 addressed to the Board of Directors of R6 Company whereby the Petitioner No.1 has admitted his mistakes and the allegations contained in the earlier petition were factually incorrect. In the said letter, the Petitioner No.1 further assured the Board of Directors of R6 Company not to pursue any complaints in future and requested for further opportunity to serve the organization. Based on the above, it was contended by the Ld. Sr. Counsel that all the contentions raised by the Petitioners until the date of said letter dated 23/11/2011 stood withdrawn by themselves and they are estoppel to re-agitate the same issues or make any new allegations in respect of the acts of oppression or mismanagement which relate back to the past i.e. prior to 23/11/2011. The Ld. Sr. Counsel for the Respondents has then taken me to the Petition and submitted that a bare perusal of the pleadings contained therein indicate that the Petitioners have further made grievances in respect of the alleged acts of oppression and mismanagement which relates to the past i.e. prior to 23/11/2011. It is, therefore, contended that most of the pleadings of the present petition are hit by the principles governing the law of the estoppel and hence the Petition is liable to be dismissed on this ground as well.

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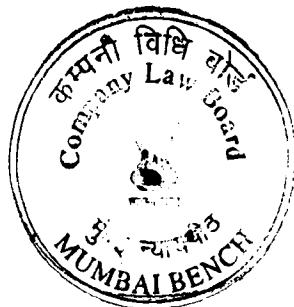


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12. Replying to the above submissions, Mr. Seervai the Ld. Sr. Counsel appearing for the Petitioners has not seriously agitated the above proposition of law, but he submitted that the allegations relating to acts of oppression and mismanagement made in the present petition are subsequent events that have happened after 23/11/2011. The Ld. Sr. Counsel submits that in case of continuous acts of oppression and mismanagement complained off they may give rise new cause of action to the aggrieved party. According to him, if such acts continue to cause grave injury to his rights and are prejudicial to the interest of his being minority shareholder in the company, until such acts of oppression and mismanagement are brought to an end, the aggrieved party is entitled to file a fresh petition. According to Mr. Seervai, for the reason that once the petition of the Petitioners was dismissed, it would not mean that the Respondents have got a permanent licence to commit acts of oppression and mismanagement in future. The Ld. Sr. Counsel, therefore prayed to reject the said plea being devoid of any substantial facts.

13. Giving the explanation in respect of the letter dated 23/11/2011, it has been submitted by the Ld. Sr. Counsel appearing for the Petitioners that the father of Petitioner No.1 and R1 had passed away on 30/10/2011 during the pendency of Company Petition No. 78 of 2010. According to the Petitioner No.1, it was his last wish and desire that his family stays together and they do not break up the company of which he was a founder. In order to keep the promise given to their late father and to keep their mother happy, both the groups agreed to resolve their differences amicably. Accordingly, it was agreed that the Petitioner No.1 would be reinstated as Vice Chairman and Managing Director of R6 Company and that the R1 would stop his illegal activities of siphoning of funds in the R6 Company. The Ld. Sr. Counsel added that in the said background when the emotions of the Petitioner No.1 were high, the said letter was tendered by him to his elder brother (R1). It is, further contended by the Ld. Sr. Counsel for the Petitioners that the facts which were the subject matter of the previous petition are not similar and identical which can be noticed comparatively in both the petitions. In view of this, the Ld. Senior Counsel contended that the principle of res-judicata and estoppel does not apply having regard to the facts of the case in hand.

14. I have considered the submissions advanced by the Ld. Sr. Counsels. I find force in the contentions of the Ld. Sr. Counsel for the Petitioners that if the Petitioners succeed to prove the alleged acts of oppression and mismanagement based on the subsequent events after the dismissal of the earlier petition, the petition cannot be dismissed on the alleged ground of the principle of res-judicata. Therefore, in my opinion, the objection raised by the Ld. Sr. Counsel that the Petition is not maintainable as it is barred by principles of res-judicata and estoppel

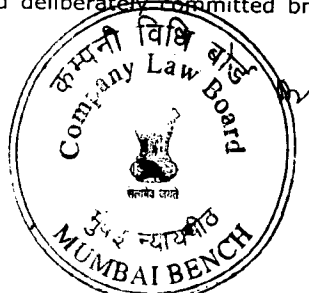


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as contained in Section 11 of the Code of Civil Procedure. The same is therefore rejected. Now, I proceed to examine the other contentious issue.

15. It is strenuously argued by the Ld. Sr. Counsel that the issuance of ESOS/ESOPS is a clear attempt on the part of the Respondents to dilute the shareholding of the Petitioners in the Company R6. The Ld. Sr. Counsel submits that the Petitioners were holding 28.83% equity shares of the issued, subscribed and paid up capital of the R6 at the time of filing of the instant petition. Inviting my attention to the minutes / order dated 11/10/2012, he submitted that on the said date of hearing interim protection was sought by the Petitioners in respect of the interim reliefs sought for in the petition. Upon this, the Ld. Sr. Counsel appearing on behalf of the R1 to R10, R12 and R13 requested for a week's time to enable them to file a short reply to oppose the interim reliefs. However, on the said date the Ld. Sr. Counsel for the Respondents gave an undertaking on behalf of the R6 Company to maintain the status quo in respect of its share holding. In view of their undertaking, the Petitioners did not press for any further reliefs and the matter was posted for hearing on 19/10/2012. The Ld. Sr. Counsel for the Petitioners submitted that on 12/10/2012 the Petitioners received a copy of order passed on 11/10/2012 whereby they came to know that inadvertently due to typographical mistake instead of "R6" in the said order, "R1" has been typed. Mr. Seervai Ld. Sr. Counsel submitted that taking undue advantage of the said typographical mistake, the R6 on 15/10/2012 purportedly issued and allotted 26,64,000 fully paid-up equity shares to R16 (a) to (c) at the market price. Having come to know through Corporate Announcement made on BSE Website by the Company, the Petitioners urgently filed Company Application bearing No. 196 of 2012 on 17/10/2012 pointing out the mistake to the knowledge of the Bench and also sought correction in the said Order. After hearing both the sides, the Bench accordingly corrected the order by substituting the word "R6" in place of "R1" vide its order dated 17/10/2012. According to him, after correction of the order by this Bench on 17/10/2012 against which no appeal was preferred the interim order passed on 11/10/2012 has to be read in reference to "R6" in place of "R1" and the parties were therefore bound to obey the said order. But the Respondents in connivance with each other and with the malafide motive to gain control over the management of the Company and further to reduce the shareholding of the Petitioner and to increase their own shareholding in violation of the order allotted 26,64,000 fully paid-up equity shares in favour of ESOS/ESOPS which is quite illegal and liable to be set aside.

16. The Ld. Sr. Counsel Mr. Seervai further challenged the allotment of the aforesaid shares as non-est, illegal, and void ab initio because the said action of the R1 to R6 was in violation of the undertaking given by them to the Board and they have willfully and deliberately committed breach of the Undertaking. The Ld. Sr.

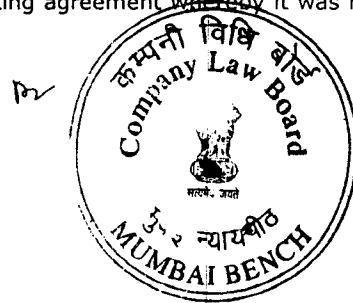




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Counsel further submitted that as per settled law any action in breach of an undertaking given to the court amounts to contempt of the order of the Court and until such contempt is purged, the Contemnor ought not to be heard in the matter and the Respondent's entire case in this regard is liable to be disregarded. It was therefore contended that the allotment of the said ESOS/ESOPS is non-est and liable to be struck down. It is submitted that on account of the issuances of allotment of 26,64,000 equity shares in the manner aforesaid in gross violation of the Court's order, the Petitioner's shareholding was reduced to 24.5% from 28.83% and the shareholding of the R1 has correspondingly increased from 35.23% to 38.12% with the R16 (a) to (c) having voting rights in favour of the Respondent Group. The Ld. Sr. Counsel has further submitted that the R16 (a) to R16 (c) i.e the Trustees of the Employees Trust are not in any way independent and they are stooges of R1. The entire issuance and allotment of ESOS/ESOPS is malafide and was for the sole purpose of decreasing the Petitioners' relative shareholding in the company, and at the same time increasing the shareholding of the R1 with the voting right under his control. The said act is therefore ex-facie, oppressive and thus liable to be set aside.

17. Furthermore, Mr. Seervai has denied the arguments of the Respondents Counsel that the said allotment of shares was made in pursuance of the earlier decision taken by the Board of the Directors of the Company with the consent of the Petitioner No. 1. According to the Ld. Sr. Counsel Mr. Seervai, the Agenda and supporting documents circulated among the directors of the company in relation of the Board of Directors meeting dated 4/09/2012 did not mention any business relating to ESOS/ESOPS. According to him, such an important business was surreptitiously included in the item of business titled as, "to consider and review the future business plan of the company". Placing reliance upon the case of ***Claudia Lila Parulekar (Smt.) V/s Sakal Papers (P) Ltd., (2005) 11 Supreme Court Cases 73*** the Ld. Sr. Counsel submitted that an important business can only be transacted after inclusion of such subject in the Agenda specifying that such special item of business is to be transacted at the meeting. It is the case of the Petitioners that at the meeting held on 5/09/2012 in fact no discussion were taken place on this issue. The entire minutes of the said meeting are in fact fabricated. In support of his arguments, the Ld. Sr. Counsel pointed out the allegations of the Petitioners made in the petition of fabrication of the minutes and submitted that the Respondents deliberately did not give the copy of the minutes of the said meeting until 25/10/2012 to the Petitioner No.1, despite repeated requests. It is therefore contended that the allegations of the Respondents that the decision was taken in the presence of Petitioner No.1 is nothing but a concocted and after thought story. The Ld. Sr. Counsel for the Petitioners has further submitted that the R6 Company has also violated Clause 22 (a) of the listing agreement whereby it was required to

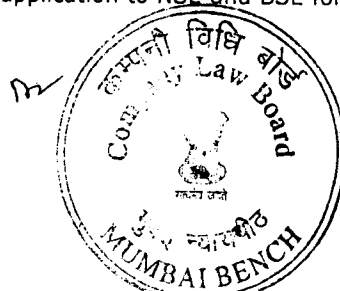


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intimate the Stock Exchange within 15 minutes of the closure of the Board Meeting. But the R6 intimated the Stock Exchange only on 15/10/2012, after delayed period of almost 40 days. Besides, there were various irregularities in filing of the E Form No.2 relating to allotment dated 15/10/2012 filed by the R6 Company. According to him, the resolution passed by the Compensation Committee was not annexed alongwith this Form and this Form has been signed by R1 who is not authorized to digitally sign the Form. It was, therefore, contended that the aforesaid facts further corroborate the challenges made by the Petitioners in relation to validity of the issuances of the ESOS/ESOPS.

18. Further, pointing out the malafides on the part of the Respondents in the issuances of the ESOS/ESOPS, it was submitted by the Ld. Sr. Counsel for the Petitioners that in the year 2006 the Board of Directors of MIL for the first time moved the Proposal of an Employee Stock Option Scheme. However, no further actions were taken by the Company for the said purpose. In 2008, the Company resurrected the ESOS/ESOPS by passing of resolution of the Board of Directors and it was confirmed subsequently, at the Annual General Meeting held on 24/10/2008. Further, the Company did not take any action in the matter of granting of options or issue of equity shares to the employees of the Company pursuant to the said ESOS/ ESOPS. It was not a mere coincidence that this issue after such a long time was considered. But according to him, it was done systematically to oppress the Petitioners by relatively reducing their shareholdings and increasing the shareholdings of the R1. According to the Ld. Sr. Counsel assuming for the sake of arguments that the issuance of the ESOS/ESOPS was legal yet it is liable, to be set aside being oppressive in nature.

19. Replying to the above submissions, the Ld. Sr. Counsel appearing for the Respondents has initially given the background of the issuance of ESOS. According to the Ld. Sr. Counsel, on 26/09/2008 a Special Resolution was passed by the AGM and decision was taken to come out with an ESOS/ESOPS. Thereafter, on 5/09/2012 a Board Meeting was held in presence of the Petitioner No.1 wherein it was decided to implement the ESOS/ESOPS as per the resolution passed on 26/09/2008. It is submitted that as per the guidelines of the SEBI relating to ESOS/ESOPS a Compensation Committee consisting of three independent directors namely Mr. Pramod Kumar Tandon, Mr. Kirti N. Damania and Mr. A. Venkat Rammurthy was set up. The said Committee held a meeting and decided that the shares would be allotted to an independent trust. This scheme came to be approved on 27/09/2012 and accordingly on 3/10/2012 the Trust Deed was executed and the Merchant Bankers were appointed. On 5/10/2012 the certificate from Merchant Bankers was received and on 6/10/2012 the Statutory Auditor's certificate was received. On 9/10/2012 the R6 made an application to NSE and BSE for in principle



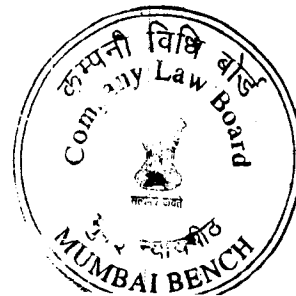
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approval to list fresh shares under ESOS/ESOPS and on 10<sup>th</sup> and 11/10/2012 the approval was obtained from them. Thereafter, on 15/10/2012 the Compensation Committee passed a resolution for allotment of shares to the Trustees and the Trust Deed was registered with the Sub-Registrar, Andheri and the Stock Exchanges were accordingly informed.

20. Retaliating the charges levelled by the Petitioners relating to fabrication of minutes dated 5/09/2012, it was contended by the Ld. Counsel Mr. Shah that the Petitioner No.1 has not denied having attended the Board Meeting held on 5/09/2012. The Petitioners have sought to allege the fabrication of minutes on the ground that he did not receive the copy of minutes prior to October, 2012. But, he himself admitted that except item No.9 of the Agenda which relate to show cause notice to the Petitioner No.1, all the subjects were discussed. Therefore, it was contended that this allegation is patently false that no discussions had taken place. According to him, the Petitioners have not challenged the Board meeting held on 5/09/2012. The Ld. Sr. Counsel indicating the sequence of events as narrated above relating to ESOS/ESOPS submitted that undisputedly it was decided that in the Silver Jubilee year of the company this Scheme will be implemented. It is therefore contended that having agreed to the Scheme, the Petitioner No.1 is not entitled to make any grievance against its implementation.

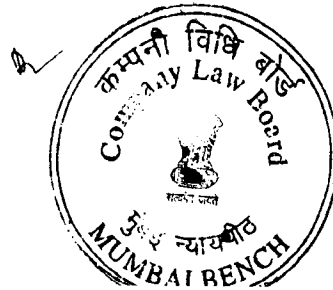
21. The Ld. Sr. Counsel for the Respondents has also refuted the charge made by the Petitioners that clauses of the listing agreement were violated. It is submitted that the Special Resolution passed on 26/09/2008 itself postulates that 5% shares will be issued and therefore it is not in violation of the listing agreement. Further the grant of loan to the Trust by the Company in respect of the acquiring of the shares by ESOS/ESOPS is permitted under the proviso of Section 77 of the Companies Act and there is no violation of any provision of the Act as contended by the Petitioners. It was alleged by the Ld. Sr. Counsel for the Respondents that the Petitioners are seeking to challenge the ESOS/ESOPS with an oblique motive as Petitioner No.1 is interested in poaching the employees into his competing business.

22. Replying to the allegation of the alleged violation of the Court's order, it was submitted by the Ld. Sr. Counsel that issuance of shares under ESOS/ESOPS in the light of the above facts cannot be said a deliberate violation of the court's order. It was submitted that the interim order dated 11/10/2012 was modified on 17/10/2012 after the alleged transaction and therefore, it cannot be said that the order in any manner has been violated. It was, therefore, contended that the said allotment of 26,64,000 equity shares cannot be set aside as contended by the Ld. Sr. Counsel for the Petitioners nor can it be said as an act of oppression.



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23. I have considered the rival submissions advanced by the respective Parties. I have also perused the records. Having given anxious thoughts to the allegations made by the Petitioners in regard to the alleged violation of the interim order passed on 11/10/2012, I do not see any reason to disagree with the view expressed by the Ld. Sr. Counsel appearing for the Petitioners. Undoubtedly, an undertaking was given by the Ld. Sr. Counsel appearing for the Respondents that the status-quo in the shareholding pattern of the company shall be maintained until the next date of hearing. I am unable to accept the reason given by the Ld. Sr. Counsel for the Respondents and/or the explanation offered by the Respondents that the said undertaking was given on behalf of the R1. It is a matter of common sense that in a case where the Petitioner claims interim reliefs and if such reliefs are granted, it is always granted for the protection of his rights and not for the protection of the Respondents' rights. Therefore, it is inconceivable that the R1 was to maintain his shareholding in the R6 Company. Normally, in a Company Petition filed under Sections 397 / 398 of the Companies Act, it is the company who is arrayed as R1. In this case, unusually the company was arrayed as R6 and Mr. Ramesh Chandra Mansukhani the Chairman of the Company was arrayed as R1, on account of this reason only the bonafide error crept in the said order. Further, it is apparent from the careful perusal of the chain of events which have taken place immediately after filing of the Petition relating to the allotment of 26,64,000 Equity Shares to the Respondents No. 16(a) to 16(c) that all the decisions were taken in undue haste. Admittedly, the decisions to come out with ESOS/ESOPS was taken in the month of September 2008, however, until 5/09/2012 nothing happened and no steps were taken. It appears that the company started taking steps only in September 2012 and immediately after filing Petition, this decision was implemented. Therefore, there are reasons to believe that after having come to know about the preparation and filing of the present petition by the Petitioners the Respondents started taking action and immediately after noticing the mistake in the proceedings dated 11/10/2012, they took undue advantage thereof and implemented their decision. The aforesaid facts give strength and support to the allegation made by the Petitioners that this was all deliberate and intentional move. It has not been disputed that on account of issuance of 26,64,000 Equity Shares in the manner aforesaid the shareholding of the Petitioner has been reduced to 24.5% from 28.83% and the shareholding of the R1 has correspondingly increased from 35.23% to 38.13%. There are also reasons to believe that the Respondent No. 16(a) to 16(c) are the persons who are close to the R1 and exercising the right of vote by them in favour of R1 cannot be ruled out. I am, therefore, of the opinion that the said allotment of shares is not only in violation of the court's order but also has been made for the sole purpose to increase the shareholding of the R1 and to decrease the shareholding of the Petitioners in order to gain control in the affairs of



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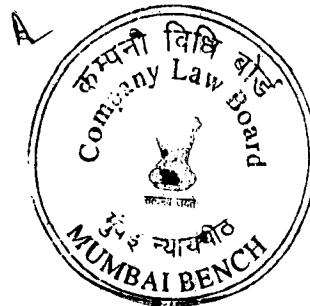
the company. In view of the above findings, the said allotment of 26,64,000 equity shares in favour of the R16 (a) to (c) are liable to be set aside.

24. Having held that the said allotment of the shares is in violation of the court's order and the motive was also mala fide and thus liable to be set aside, the next question arises for my consideration is as to what order is required to be passed to secure the ends of justice. In my considered opinion, the setting aside of the allotment of shares in favour of R-16(a) to R16(c) and further making status quo ante as it existed prior to filing of Petition on 11/10/2012 will be just, proper and fair and by doing so the substantial justice will be done between the parties.

25. In so far as the prayers made by the Petitioners to refer the contempt proceedings to award punishment of imprisonment to the person responsible do not deserve to be allowed. The reason is that admittedly, a decision was taken for the allotment of shares to ESOS/ESOPS. It is also not denied that in the meeting held on 5/09/2012 the Petitioner was present and in his presence ESOS/ESOPS was taken and in pursuance to this decision compensation committee was constituted. All the said facts are not placed in the original petition and no specific relief was sought that the allotment to the ESOS/ESOPS should be stayed. In the absence of such mention in the original petition, justice would be met if the allotment of shares to ESOS/ESOPS and status quo ante is restored. I, therefore, reject the other prayers made in C.A. No. 209 of 2012.

26. Now I propose to deal with the issue relating to the mismanagement in the affairs of R6 alleged by the Petitioners. In this regard, the Ld. Sr. Counsel appearing on behalf of the Petitioners has heavily relied upon the report of Auditors in order to prove the allegations of the Petitioners for mismanagement in the affairs of the R6 committed by the Respondents.

27. On behalf of the Petitioners, the Ld. Sr. Counsel has submitted that having come to know the serious financial irregularities and siphoning off funds by the Respondents, the Petitioner No.1 submitted a complaint to the Consortium Bankers led by State Bank of India who have financial exposures in the R6 and requested them to conduct a Special Audit of R6, R7, R9 and R10 in relation to allegations made by the Petitioners and the R1 against each other. Pursuant thereto, terms of references were prepared by the Consortium of Banks and M/s Haribhakti & Company was appointed to conduct a Special Audit of R6. The said report was submitted during the course of trial of the present case and on the request of the Petitioners, the report was summoned by the Board vide its order dated



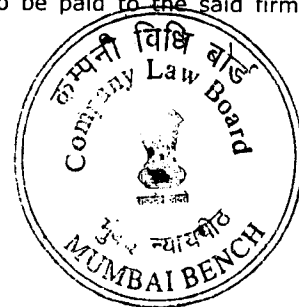
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23/11/2012 which is available on record. Ld. Sr. Counsel appearing for the Petitioners has placed reliance upon the said report and submitted that the perusal of the said report would indicate the serious financial irregularities committed by the Respondents in respect of the charges made by the Petitioners against them. The Ld. Sr. Counsel has then taken me through the report itemwise during the course of his submissions which are being dealt with hereinafter.

28. The Ld. Sr. Counsel has pointed out that the first charge in respect of which the audit was conducted is the siphoning off funds from MIL to its Subsidiary Company M/s Man Infraprojects Ltd. According to him, from the perusal of the report, the Auditor has observed that there was excessive steel purchased for a sum of Rs 2.06 crores and there was unusual and lavish trend of purchase. According to the Ld. Sr. Counsel for the Petitioner, it is further observed in the said report that Loans and Advances were made by the R6, R7 and R10 to the related parties on inadequate terms and conditions and documentation. It is also indicated that the R6, R7, R10 were paying higher rate of interest on the amounts borrowed by them and the interest received from these related third parties were much lower and lastly, ICD were given without security and documentation to a company of which the director was the former independent director of the R6 Company.

29. The Petitioners have further pointed out his second charge alleging that MIPL Assets are being sold at lower rate than prevailing market rates and submitted that the Auditors have confirmed this charge in their report. However, they did not press this charge here because the Respondents after filing of the petition cancelled the proposed sale.

30. Inviting my attention to the another charge made by the Petitioners in respect of the commission paid on exports, the Ld. Sr. Counsel appearing for them submitted that the Respondents have siphoned off the funds in disguise of the commission on exports to unrelated parties. The Ld. Sr. Counsel drew my attention to this charge and finding of the Auditors who have held the said charge as correct for the reasons recorded that the debit note was received instead of invoice from many agents and all the debit notes have similar formats. He further pointed out that according to the Auditors the debit notes were prepared at same place or by one single party. Further, inviting my attention to the pleadings of the petition made in para 9.1 to 9.7 regarding payment of commission to dubious agents, the Ld. Sr. Counsel submitted that huge amount of commissions have been shown paid to M/s Karachi Metal and AL Shabeer Trading FZCO and M/s JKN International FZC for Contract of Niroo Guster Institute without the said firm having rendered any service and submitted that the amount shown to be paid to the said firms were



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misappropriated and no approval was taken by R6 for making such payments as confirmed by the said Auditors in their reports.

31. The Ld. Sr. Counsel for the Petitioners has further pointed out that the Respondents kept on investing/ depositing the FDR in Pen Co-operative Bank despite having come to know the scams in the said Bank and no legal action was taken by the R6 Company for recovery of the FD amount of Rs.3 crores which further corroborates the allegation of the mismanagement made by the Respondents and confirmed by the Auditors at Page 70 and 71 of their report.

32. The Ld. Sr. Counsel has then taken me through Page No. 77 of the Audit report available on record and submitted that the interest free loan was given by M/s Man Overseas Metal to third parties without proper documentation. The Auditors have also observed that the purchase and sale transaction of the company did not reconcile with the Bank records they have noted that Rs.20.05 crores was paid to an entity M/s Escort Commodities LLC as advance against some purchase but in fact no purchase took place.

33. The Ld. Sr. Counsel for the Petitioners has further pointed out that the Respondents are selling the scrap material at much higher prices than accounted for in the books and this allegation has been confirmed by the Auditors also in their investigation. The Ld. Sr. Counsel has taken me through the records alongwith the audit report and submitted that salable scrap was disposed of by R6 as garbage at zero value but no invoices were prepared for such materials showing as "garbage". According to the Petitioners, the scraps which were sold as garbage were in fact sold in the market at throw away prices to different customers and thus the company suffered a loss of Rs.55 lakhs which could have been prevented had it been sold at market price. The Ld. Counsel says that all the said allegations have also been confirmed by the Auditors in their report.

34. The Ld. Sr. Counsel has then submitted that the Auditors have further confirmed the allegations made by the Petitioners that recent show cause notices issued by the DRI to the R6 Company demanding Rs.121 crores for misclassification of alloy steel as "non-alloy steel" as mismanagement by the Respondents in the affairs of the R6. According to the Ld. Sr. Counsel, the Company had to pay Rs.3.79 crores and may have to pay the remaining amount of Rs.117 crores alongwith interest of Rs.84 crores.

35. The Ld. Sr. Counsel has further pointed out few irregularities as observed by the Auditors M/s Haribhakti & Company and submitted that the said report being prepared by the an independent, neutral and reputed Auditors appointed by the



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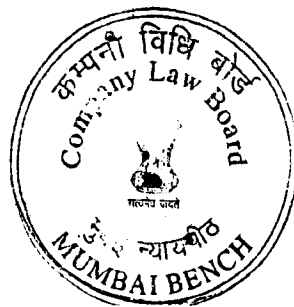
third party namely Bankers should not and cannot be disbelieved. The Ld. Sr. Counsel submits that after submission of the report, the parties were given full and proper opportunity of hearing and making representations to the said report. After doing so the said Auditor report confirmed their findings and therefore, no question arise for any doubt as far as the Auditor's Report is concerned.

36. Refuting the contentions of the Ld. Sr. Counsel for the Respondents, the said report being inadmissible in evidence, it was submitted by the Ld. Sr. Counsel for the Petitioners that provision of the Evidence Act are not applicable to CLB. According to him, the principles governing the rules of natural justice apply to CLB. The Hon'ble Board is therefore required to consider the said report from the point of view of the best interest of the company and it cannot go by the finding of the State Bank of India who did not prefer to act upon the report under the influence of the Respondents.

37. Inviting my attention to the reply of R6 dated 18/10/2012 whereby the Company expressly stated that the audit report of the Auditors would clearly establish the true and correct fact to the management of the companies and its subsidiaries, it was submitted by the Ld. Sr. Counsel for the Petitioners that having taken such stand by the Respondents they now cannot be allowed to ignore the findings of the report. It is, therefore, submitted that the Petitioners have made out a case for appointment of a special auditor including the other reliefs prayed for.

38. Replying to the above contentions, the Ld. Sr. Counsel for the Respondents has submitted that the Consortium of Banks had decided to appoint an independent Auditor in respect of the working of R6 in view of the complaint of Petitioner No.1 by his letter dated 3/09/2012. However, after having perused the report of the Auditors, the Consortium of Banks did not find any merit in the complaint of Petitioner No.1 and the findings of the auditor's report were found immaterial in nature by them. It is, therefore, contended that the allegations of the Petitioners placing reliance on the said report must fail and the petition must be dismissed.

39. It is next contended by the Ld. Sr. Counsel for the Respondents that the Auditors report of M/s Haribhakti & Company and relied upon by the Petitioners to substantiate their case is itself an inadmissible document and has no evidence by value. According to him, no credence can be placed on the said report as the said document has not been proved in the court of law. He added that admittedly, the author of the report has not been examined and the authenticity of the report has not been tested and it cannot be read as part of Petitioners evidence. In support of his view, the Ld. Sr. Counsel has placed reliance upon a decision by the Hon'ble





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High Court in the case of ***Om Prakesh Bareliya & Ors. V/s Unit Trust of India reported in AIR 1983 Bombay P1.***

40. It was next submitted by the Ld. Sr. Counsel for the Respondent Nos. 1, 2, 12 and 13 that in so far as the report of M/s Haribhakti & Company is concerned, it does not form part of the petition. There is no pleading in the petition relying upon the said report. The Petitioners did not choose to amend the petition to make the M/s Haribhakti & Company's report as part of the petition. The challenges, allegations and contentions relying upon the report do not find any place in the petition on this ground. It was urged that the said M/s Haribhakti & Company's report cannot be accepted.

41. Challenging the validity of the report it was perused by the Ld. Sr. Counsel that the findings in the report appear to be incorrect and they are not based on the cogent material. The particulars on the basis of which the findings are arrived are neither being pleaded in the petition nor they exist in the report. Therefore, the said report cannot be relied upon by the Board.

42. It is further submitted that the law cited by the Ld. Sr. Counsel in the case of ***Rajindra Kumar Malhotra & Ors. V/s Harbanslal Malhotra & Sons Ltd. & Ors CLB Principal Bench [1996]*** is not applicable having regard to the fact of the present case. In the present case M/s Haribhakti & Company has not filed any affidavit in support of their report. Moreover, M/s Haribhakti & Company is not a party in the present petition nor appeared in this case. Further, the report obtained from M/s Haribhakti & Company being a third party cannot be looked into by the Board until an opportunity is granted to the Respondents to confront the report. It is therefore contended that the said law is not applicable with regard to the facts of the case.

43. Referring the decision of ***Om Prakash Bareliya & Ors. Vs. Unit trust of India reported in AIR 1983 BOM 1*** the Ld. Sr. Counsel submitted that under Sections 61 and 62 of the Act, it is necessary that the contents of the documents must be proved by production of the document itself and its author must depose and verify its contents. The Ld. Sr. Counsel has further relied upon the following cases in support of his submissions:-

1. ***Clive Mills Co. Ltd. In re [1964] 34 Comp cas 731 (Cal.)***
2. ***Bengal Kuxmi Cotton Mills Ltd. In re [1965] 35 Comp Cas 187 (Cal);***
3. ***M.M. Dua V. Indian Diary and Allied Services P. Ltd. [1996] 86 Comp cas 657 (CLB).***

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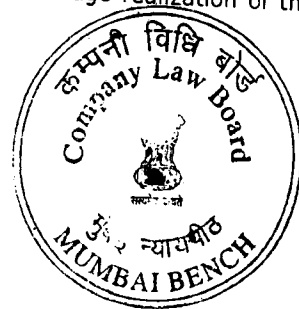
44. In respect of the allegations made by the Petitioners relating to diversion of funds in the guise of the export commission, it has been submitted that there is no finding as such in the said report. Moreover, substantially, the same allegations in respect of the commissions agent. M/s JKN International FZC for Contract of Niroo Guster Institute and M/s Karachi Metals and M/s Al Shabeer Trading FZCO were made in the earlier petition and they have already been rejected in the said judgment delivered by the then Member on 12/09/2011 in Company Petition No. 78 of 2010. Therefore the Petitioners are not entitled to raise this issue in this petition.

45. It is next argued by the Ld. Sr. Counsel for the Respondents that the Petitioners reliance on a letter of Mr. Sanjeev Dheer the then chief operative officer to substantiate the allegations of siphoning of funds by way of export commission is unfounded. According to the Ld. Sr. Counsel, Mr. Sanjeev Dheer is now working with the Petitioners firm which is carrying on a competitive business with that of R6 Company and therefore, the said letter cannot be relied upon.

46. It is next argued by the Ld. Sr. Counsel for the Respondents that the R6 has its business mainly in the Middle East which is opaque countries. According to him, business transactions in the said countries are arrived at with the assistance of various commission agents. All agreements or assignments in the said countries can only be obtained with the assistance of various commission agents. It is therefore, contended that the R6 is bound to make payments to various agents operating in the Middle East in the interest of Respondent Company.

47. It is further submitted by the Ld. Sr. Counsel for the Respondents that the said commission paid to various agents has been made in the usual course of business in the interest of the company and for the benefit of the company through legal channels in compliance with all the applicable provisions of law. According to him, the said commissions are also reflected in the balance sheet approved by the audit committee of which the Petitioner No.1 is a member and approved by the shareholders including Petitioner No.1 and his group. In the circumstances, the contention of the Petitioners relating to the siphoning off the money through export commission is a mere conjuncture not substantiated by any particulars. It is, further, contended that the Petitioner No.1 being a member of the Audit committee since has not objected to the payment made by R6 to the commission agent at any point of time therefore he is not entitled to make such allegations.

48. Replying to the allegation for sale of scrap at lower rates, it has been contended by the Ld. Sr. Counsel for the Respondents that between the period of April, 2006 to March, 2010 it was the Petitioner No.1 himself who was looking after the sale of scrap and during his tenure the percentage realization of the scrap to

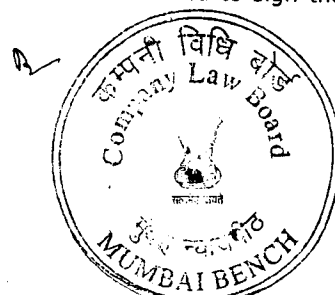


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raw material range between 17% to 53%. Thereafter, the Petitioner No.1 stopped looking after this assignment, the realization increased upon 62.44% which itself shows that the allegations of the Petitioners is devoid of any substance.

49. Refuting the allegations of siphoning off funds, by the Respondents, the Ld. Sr. Counsel appearing for them has submitted that a sum of Rs.400 crores was infused into R7 on or around 2008 by the R6 Company. Therefore, the alleged ground of siphoning off fund taken by the Petitioner as act of oppression is baseless. Furthermore, the Petitioner No.1 himself being a member of the audit committee of the company at no point of time raised any objection to the infusion of funds into R7 rather he approved it at the relevant time and taking stand contrary to his own approval is nothing but a malafide attempt to malign the image of the Respondents and to a false colour to the petition. To support his contention the Ld. Sr. Counsel has taken me through the documents available on record and submitted that even in the AGM dated 27/08/2012 the Petitioner No.1 never objected to passing of the audited accounts. According to him, the said infusion of funds was required to be made to get back the funds already invested by the R6 in R7 so that the projects could be completed and which have already been undertaken by the R7 thus the sale of the premises could bring back the amount of investment made by R6 and therefore this allegation has no merit and liable to be rejected.

50. The Ld. Sr. Counsel appearing for the R1, R2 and R13 has submitted that the Petitioner No.1 was himself the Managing Director and Vice Chairman of the Company until 8/09/2012 and was also member of the Audit Committee. As a member of the Audit Committee the Petitioner No.1 had attended meetings on 24/05/2011, 19/07/2011, 11/08/2011, 14/11/2011 and 2/02/2012. Having accepted the director's report being part of the audit committee the Petitioner No.1 is stopped from challenging the audited balance sheet and Directors report. Further, the said balance sheet and audit report were also placed in the AGM held on 27/08/2012 and was accepted. The Petitioners had not objected to any part or parts of the accounts presented before the General Body Meeting for its approval. The Petitioner No.1 was involved in day to day affairs of the company and was part of the decisions that were taken by the Company. Therefore, the contention of the Petitioner No.1 that he being the alone voice opposing the action of the Respondents has no merits in view of the fact the Petitioner No.1 himself is a signatory to the account. The Ld. Sr. Counsel has taken me through certain minutes of the meeting and submitted that there are instances when the suggestions were accepted by the Board and relevant changes were made accordingly. If the Petitioners had been signing all the minutes, if he was interested in the well being of the Company, he would have refused to sign the accounts. It



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was therefore contended that the allegations of siphoning and mismanagement are merely an afterthought and are baseless and false. It is further contended that the R1 and R2 have never been members of the Audit Committee therefore the allegations made against them do not stand.

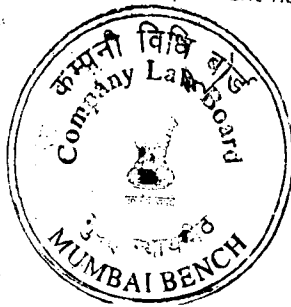
51. The Ld. Sr. Counsel for the Respondents has further argued that the said report does not deal with the explanation or the further documents provided by R6 and the observation of the said report themselves suffer from material discrepancy apparent on the face of it and as such cannot be relied upon. Furthermore, there is no finding of siphoning off funds and mismanagement in the said report. According to him, the Consortium of Banks had called upon M/s Haribhakti & Co., to submit report in specific terms of reference for a particular purpose and the Bankers themselves did not find any substance in the said report. Therefore, the said report has out lived its utility and cannot be relied upon.

52. It is further submitted by the Ld. Sr. Counsel that the basis of allegations of the Petitioners in respect of siphoning off funds is that the Petitioners' complaint was acknowledged by the Consortium of Banks. However, since the Bankers have now concluded that the said report is immaterial in nature therefore the allegations of the Petitioners themselves failed. According to the Ld. Sr. Counsel, even a bare perusal of the said report shows that the conclusion arrived at are with regard to procedural lapses and they do not lead to any inference of siphoning off funds as alleged by the Petitioners. Therefore, the Petitioners cannot be allowed to misuse the report by making conjunctures which are not in fact available in the said report.

53. Lastly, it was argued that the Board had ordered the Petitioners to keep the report confidential and not to disclose it to anyone except to their legal advisors now making it public by them is a clear breach of the order of this bench and liable to be punished under the Contempt of the Court Act as prayed in the C.A No. 17 of 2013 filed by the Respondents.

54. Having critically examined the allegations and the counter allegations made against each other in respect of the mismanagement of the company, I have come to the conclusion that the Petitioners had already made similar kind of allegations in their earlier company petition being C.P No. 78 of 2010 filed by them which came to be dismissed on merits and against which no appeal was filed. In support of my view, I may like to reproduce the relevant paras in C.P No. 78 of 2010:-

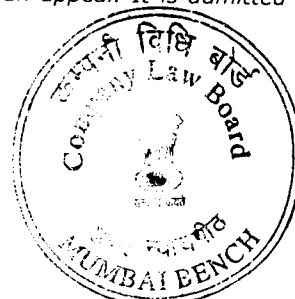
*"The petitioners contended that the respondents have siphoned of the amount of the company thereby the Company is put to loss. The Petitioners at para 7.5 of the petition averred that the 3<sup>rd</sup> respondent has sorted to practices involving*



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*serious oppression of the petitioners and is indulged in gross mismanagement. It is also contended that the 3<sup>rd</sup> respondent has usurped complete control and management of the 1<sup>st</sup> respondent to the exclusion of the petitioner group. The affairs of the company are being run in an autocratic manner and resorted to keeping the petitioners in the complete dark. Except these averments there are no particulars of the siphoning of the funds and no details have been given to that effect. However, the petitioners in their rejoinder at para 49 stated that the R 1 Company is suffering financial losses due to illegal actions and misconduct of R3 and given some instances such as that the petitioner received an e-mail from the R1's dealer in Iran informing that bank guarantee amount of 7 million USD given by R1 to M/s. IGEDC Iran are likely to be invoked due to delay in delivery of pipes. At para 50 of rejoinder, it is averred that the Company has spent Rs.110 crores on litigations against a company in USA. At para 51 of rejoinder, it is stated that the R3 Siphoned off moneys purportedly paying commission to M/s. JKN International FZC by transferring Rs.43 crores. Further in para 52 to 54 of the rejoinder, it is averred that the R3 had transferred a sum of Rs.20 crores from R1 to a subsidiary of R1 i.e. Man Overseas DMCC Dubai and also resolved to grant a loan of Rs.50 crores to Man Infra Projects in a Board Meeting held on 24<sup>th</sup> May, 2011. The Counsel appearing for the respondents submitted that the facts regarding siphoning off moneys for the first time brought to the notice of the Bench in a rejoinder only. Therefore as on the date of filing of the petition the petitioners have not made out any case on any acts including the siphoning off the amounts except the averments in the rejoinder and the same must be treated as subsequent events to filing of the petition and they do not have any substance and cannot be taken cognizance. In answer, the Learned Senior Counsel for the petitioners relied upon a judgment 8) supra wherein the Bombay High Court held "that in a petition for relief under Sec.397 of the Companies Act, it is permissible bring on record by an amendment not only the facts pertaining to the events up to the filing of the petition but also subsequent events." It is relevant to mention that the petition was filed on 11<sup>th</sup> October, 2010 and the respondents have filed their counter on 17<sup>th</sup> March, 2011 and the petitioners have filed their rejoinder to the counter on 29<sup>th</sup> July, 2011 and made the averments with regard to siphoning off amount by the third respondent. The respondents in their sur-rejoinder have dealt with the said averments of the petitioners and stated that for the year ended 31<sup>st</sup> March, 2011 the Company made net profit of Rs.91.97 crores and the audited accounts have been approved by the Board of Directors and the extract whereof was published by the Company in Economic Times and Maharashtra Times issue dated 26<sup>th</sup> May, 2011 in compliance with the relevant requirement of the listing agreement It is stated that the Company spent Rs.110 crores on litigation against the company in USA. The said amount represents the amount awarded against the Company by the Court in USA and in respect whereof the Company preferring an appeal. It is admitted that the*

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company has paid commission to the person and entity who had rendered services to the Company and in respect whereof the company was duty bound to pay the commission. It is stated that the Man Overseas DMCC Dubai is a wholly owned subsidiary company and the company had given loan to the said Man Overseas DMCC Dubai as per the authority given by the Board of directors of the Company at its meeting held on 5<sup>th</sup> Feb. 2010. It is also stated that the Company had given loan of Rs.50 crores to Man Infra Projects Limited and the loan was utilized by the said Company to purchase 411 irreversible fully convertible debentures. From the documents enclosed to the rejoinder by the petitioners it is evident that the 1<sup>st</sup> petitioner made complaint to the Santacruz Police Station Mumbai on 13<sup>th</sup> May, 2011 wherefrom it is clear that the said complaint was lodged after filing of the petition before this Bench and made a reference of filing of this petition before this Bench. The averments made in the rejoinder in respect of siphoning off moneys are the same as made to the Inspector in-charge Santacruz Police Station, Mumbai. It is clear that the averments made in respect of siphoning off moneys already complained to the Santacruz Police Station on 13<sup>th</sup> May, 2011 and the same is reiterated in the rejoinder verbatim. Therefore, this Bench is of the view that the allegations in respect of siphoning off moneys are afterthought. Moreover, it is contended by the petitioner that the said acts are criminal offences and the complaint made to the police prior to bringing out the same before this Bench and the Law will takes its own course. Even otherwise taking into consideration the judgment of the Bombay High Court with regard to the subsequent events, I find that there is no substance in the averments made by the petitioner. The respondents have categorically replied in their sur-rejoinder to the each and every averment. The moneys which the petitioner alleged to be siphoned off was not utilized by the 3<sup>rd</sup> respondent individually for his sole benefit or to his family members, but spent for the benefit of the Company and its business affairs. Hence, I do not find any substance in the allegations and the same are after thought and completely baseless. Accordingly the issue is answered.

The Learned Senior Counsel for the petitioners relied upon the judgments and now I deal with the same. In re 1) supra, the Honble Apex Court held that when a material change is brought about in the management to the detriment of the interest of the main promoter it is fairly covered under Sec.398 (1)(b) of the Act. In the present case the petitioner No.1 and the Respondent No.3 are the directors from the inception. Moreover the R 1 Company is not a family company. The petitioner No.1 is continuing as director, however, the managerial powers have been withdrawn in accordance with articles and the same cannot be said to be an act of oppression. Hence the judgment is not applicable to the facts of the present case. The Learned Senior counsel cited the judgments of the Company Law Board in 2) and 3) supra are concerned, the CLB is of the view that the nature of the



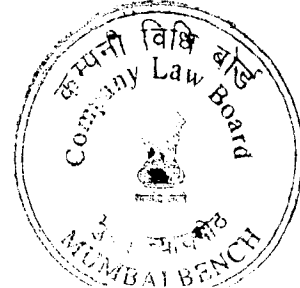
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*Company in those cases being family companies and the directorial complaints cannot be ignored and it was considered as act of oppression. However, in the present case as I already hold that the R1 Company is a listed company not a family company and the judgments are not applicable to the facts of this case".*

55. Having given my thoughtful consideration to the arguments of the Ld. Sr. Counsel for the Petitioners, I find myself unable to accept his contention that the aforesaid findings of the then Ld. Members are liable to be ignored in view of the latest Auditors Report filed by M/s Haribhakti & Company. In my considered opinion, it has been rightly contended by the Ld. Sr. Counsel for Respondent that in so far as the report of M/s Haribhakti & Company concerned it does not form part of the Petition and there is no mention in the Petition referring and relying on the said report nor the Petitioners choose to amend the Petition to make the said report as part of the Petition and hence, such report cannot be accepted. Furthermore, in the present case M/s Haribhakti & Company is not a Party nor has it filed any Affidavit in support of or against the report, I therefore, find enough force in the submission advanced by the Ld. Sr. Counsel for Respondents that the report cannot be looked into by the Board. Furthermore, from the perusal of the report, I find that the report is not based on cogent material. The said report itself states that the entire documents were not furnished to the Auditor. Therefore, I hereby hold that the Petitioners are not entitled to take any benefit from the report of M/s Haribhakti & Company. In my considered view, the Petitioners thus have failed to establish any case in respect of the aforesaid charges of mismanagement or acts of oppression in respect of the R6 on the basis of the report of Haribhakti & Company which was sought by Consortium of Banks in different context for which the Respondent did not get any adequate opportunity to rebut the same in this Petition.

56. I have also considered the company application being C.A. No. 17 of 2013 filed by the Respondents pointing out that inspite of an undertaking given by the Petitioner to keep the report confidential and not to disclose to anyone except their legal advisors, it was made public by them and therefore they are guilty of contempt and liable to be punished accordingly. In my view, the Respondents have failed to substantiate the said allegation that the Petitioners were responsible in divulging the said Auditor's report to third Parties. I, therefore, hold that the said application is baseless and liable to be disposed of.

57. The next point submitted by the Ld. Sr. Counsel appearing for the Petitioners is that the R1 was incharge of finance and accounts. The Ld. Sr. Counsel has taken through various documents available on record and pointed out that the accounts do not give any details whatsoever of the commissions paid and merely gives aggregate figure of commission paid as indicated in Page 6 of the Annual

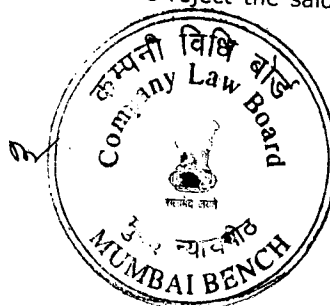


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Report annexed with the Affidavit of R1 dated 18/10/2012. The Ld. Sr. Counsel submits that the accounts of the company were deliberately presented on the last minute and only after the intervention of this Board by passing an order to provide copy of accounts in advance on the application of the Petitioner being C.A No. 9 of 2013 the accounts were provided to the Petitioners. It is submitted that at the Board Meeting held on 24/05/2012, the Petitioner No.1 put several questions seeking clarification in regard to the accounts which were not replied by the Respondents. However, according to him, the accounts were eventually signed by the Petitioner No.1 on the assurances of the statutory auditor that all queries would be answered. It is stated that after the Board Meeting, the Petitioner No.1 addressed several emails to the company secretary and Board of directors in this regards, the copy of which have been filed on record, but of no avail. Finally, the Petitioner No.1 refused to sign the CFO clarification though he was pressurized to sign and ultimately the same has to be signed by the R1. The Ld. Sr. Counsel therefore submits that all the above facts go to prove the allegations of the Petitioners was working and signing the documents under pressure and therefore no weight should be given to the plea of the Respondents that since the Petitioner No.1 has signed the documents etc. he is not entitled to raise any objection now or the Petitioner has willingly consented to the action of the Respondents.

58. Replying to the above submissions, the Ld. Sr. Counsel for the Respondents have contended that the Petitioner No.1 was allowed to participate in the meeting and after due deliberations the accounts were passed and he has also signed after going through the details of the statement of accounts and nothing was concealed. The above contentions have been raised just to give a colour to the false allegations made by the Petitioners and thus liable to be rejected.

59. I have perused various reports, annual reports, directors' report and the balance sheet filed by the company which is available on record. I have also seen the minutes of the meetings. It is noted that all the meetings relating to financial matter relating to the company have been attended by the Petitioner No. 1. He has also signed the documents without any protest being recorded. In my view, after signing the accounts without any protest agitating any issue, in my opinion, cannot be accepted. The Petitioner No. 1 is an industrialist. He is not an illiterate villager. He is supposed to know the consequences of signing of any document. He did not express any objections at any point of time except at one occasion that too after his relations became strained with the R1. Undisputedly, he himself was the member of the audit committee. I, therefore, do not see any reason to reject the contention advanced by the Ld. Sr. Counsel for the Respondents, that the said allegations have been made merely to malign the image of R1 and to give colour to the false allegation made by the Petitioner. I therefore reject the said allegations leveled by the Petitioners.





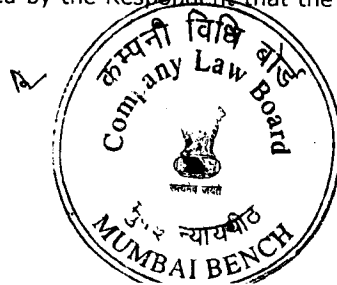
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60. In continuation of the arguments, the Ld. Sr. Counsel for the Petitioners has then submitted that the minutes of the Board Meetings of the R6 have been incorrectly recorded by the R1 and they do not reflect and show the true and correct affairs of what has transpired actually in the Board Meetings. According to him, this unilateral recording of the minutes of the Board of Directors by the Respondents has resulted in the correct and true state of affairs relating to financial and day to day operations of the R6 not being reflected and being brought to the knowledge of the other shareholders. According to the Ld. Sr. Counsel for the Petitioners, these deliberate acts of omission and commission in preparation of the minutes of the meeting has resulted in the interest of the shareholders and public at large being adversely effected.

61. Referring to the documents filed by the Petitioners, it was contended that the Petitioner No.1 addressed number of letters, emails to the Company Secretary of R6 as well as board of Directors of the R6 to correctly record the minutes of the Board Meeting held on 24/05/2012 and 31/07/2012 but for the reasons best known to the Respondents they chose to ignore the letters and rectify the mistakes as per suggestions made by him. In support of his arguments, the Ld. Sr. Counsel has invited my attention to certain correspondences made by Mr. Suddata Mandal the nominee director of the Exim Bank addressed to the Board of Directors of the R6 pointing out his grievances with regard to falsification and fabrication of minutes and submitted that the said corroborates the allegation made by the Petitioners with regard to the manipulation of minutes.

62. The Ld. Sr. Counsel also drew my attention to his suggestion to the Board of Directors to circulate the minutes of the meeting within 24 hours to avoid any possibility of manipulation, but according to him, the same was also not taken into cognizance by the Respondents deliberately and they did not adhere to the said suggestions to suit the Respondent Group's convenience and ulterior motives. The Ld. Sr. Counsel for the Petitioners in order to support his allegations has filed a copy of e-mail dated 6/09/2012 asking for certain information which according to him has not been supplied till date. In addition to the above, the Ld. Sr. Counsel for the Petitioners submitted that despite repeated requests the R6 did not provide the copy of the signed minutes. It is therefore, submitted the said acts of the Respondents are harsh, wrong, burdensome and oppressive to the Petitioners and only a proper and detailed enquiry into the affairs of R6 may reveal many other irregularities and instances of misconduct, siphoning of funds etc.

63. Having examined the material available on record in the light of the submissions made by the Ld. Counsel for the Petitioners, I am of the opinion that all these facts and events were known to the Petitioners even prior to filing of his earlier company petition. As stated above, the said company petition was dismissed on merits. Therefore, it is rightly contended by the Respondent that the Petitioners

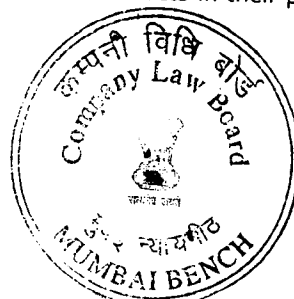


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cannot be allowed to re-agitate the said issues in the subsequent petition. As held in hereinabove, in the present case the facts and events that have taken place during the intervening period between the dismissal of the earlier petition and filing of the present petition can only be considered. I, therefore, do not deem it just, proper and appropriate to pass any order to make any enquiry into the affairs of the R6 Company. The arguments advanced by the Ld. Sr. Counsel for the Petitioners are not tenable and rejected.

64. The Ld. Sr. Counsel for the Petitioners has leveled further charge upon the Respondent Nos. 3 to 5 saying that the alleged independent directors of the R6 are actually not independent in substance and they are working at the behest of the R1 and R2 for their personal gains and vested interest and are not acting in the interest of the R6. The Ld. Sr. Counsel for the Petitioners submitted that they are merely stooges of the R1. He added that the Petitioners had raised issues concerning management and made suggestions for amendment in the code of conduct to which the R1 to R5 did not even show the courtesy of discussing the said issues to bring more transparency in the financial management of the Company. According to the Petitioners, the R1 with the connivance and active support of the R2 to R5 are grossly mismanaging the affairs of the R6. The Ld. Sr. Counsel has tried to demonstrate that the non-independence of the said directors saying that the R3 is in fact providing legal and consultancy services and is closely related to the R1.

65. Replying to the above submissions, it has been contended by the Ld. Counsel appearing for the R3 to R5 that from the perusal of the record it may be noted that R3 has been an independent director on the Board of the R6 Company since 11/07/1989. The last appointment in relation to his directorship was made at the AGM held on 23/12/2011. According to the Ld. Counsel, at that point of time, the Petitioner No.1 did not make any grievance nor raised any note of dissent in relation to his reappointment. In addition to the aforesaid the minutes of the meeting dated 18/05/2010 would also indicate it was the Petitioner No.1 who had recommended the name of the R3 to be the Chairman of the said meeting for discussing the special agenda item as recorded therein. Similarly, the R4 and R5 were initially appointed as additional directors by the Board of Directors of R6 on 14/02/2011. Thereafter, the appointments of R4 and R5 were reaffirmed at the AGM held on 23/12/2011 and thereafter 27/08/2012. According to the Ld. Counsel, the R5 was reappointed as an independent director of R6 Company and both of them continued to be the independent directors. However, at no point of time any complaints were made by the Petitioner No.1 and he himself on all the occasions voted in favour of their appointments. Having done so, now he cannot be permitted to raise any grievance in this regard. The Ld. Sr. Counsel has vehemently argued that the Petitioners have deliberately suppressed the said facts in their petition and



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even in the rejoinder they have conveniently ignored to deal with the above stated facts pleaded by the Respondents. It was, therefore, contended that the correctness of the said facts are deemed to have been admitted by the Petitioners. Furthermore, according to the Respondents there are no specific pleadings or instances cited by the Petitioners attributing the role of the Petitioners to any isolated or continuous acts or omissions which by any stretch of imagination can be said to oppression and/or mismanagement as regards R6 Company. Moreover, the said Respondents are not concerned with the internal disputes between the Promoter Group but are concerned only with the best interest of the R6 Company. It is, therefore, contended that the petition is without substance as against the R3 to R5 and is liable to be dismissed.

66. Having considered the submissions of both the side, I do not see any reason to differ with the view expressed by the Ld. Sr. Counsel for the Respondent that the independent directors were appointed during the tenure of the Petitioner No. 1 with his consent as the last appointment in relation to the directorship was made at the AGM held on 23<sup>rd</sup> December, 2012 and therefore it is rightly contended that the Petitioners cannot raise any grievance which they were entitled to raise at the time of their appointment. In my opinion, the said charge is also without material substance and is hereby rejected.

67. It has been vehemently contended by the Ld. Sr. Counsel for the Petitioners that R8 i.e. M/s Man Global Ltd. is entirely controlled and owned by the R2 and their immediate family member. According to the Ld. Sr. Counsel for the Petitioners it is not a subsidiary of the R6 and its business is in direct, conflict with the business of R7 and R10 who are wholly owned subsidiaries of the R6. It is submitted by the Ld. Sr. Counsel for the Petitioners that the R2 is also a co-promoter and director of the R8 which is also engaged in the business of real estate within the territory of Mumbai which the R7 and R10 do. It is alleged that despite investment made by the R6 in the R7 the business of R7 and R10 have declined considerably and they are making losses. On the other hand the business of the R8 is prospering. According to him, the R1 in connivance with R2 to R5 are diverting the funds of the R7 and R10 to the R8. It is further submitted that the R1 and R2 have been using the resources and the credentials etc. of the R6, R7 and R10 to the benefit of the R8. To prove these allegations the Ld. Sr. Counsel for the Petitioners have taken me through various documents filed by them in their Rejoinder dated 31/10/2012 as Exhibit "Q" & "R".

68. Denying the allegations made by the Petitioners against the Respondents for carrying the competitive business the prejudicial interest of the R6 company and its subsidiaries, the Ld. Sr. Counsel for the Respondents to the contrary have made serious allegations against the Petitioners for their acts which according to the Respondent Group have been prejudicial to the interest of the R6. The Ld. Sr.

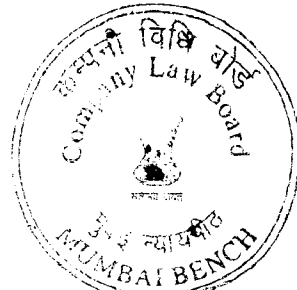


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Counsel has referred the Exh- R2 filed alongwith the Reply contending that the Petitioner No.1 was convicted of insider pleading by the Securities Appellate Tribunal. The Ld. Sr. Counsel has further pointed out that the Petitioner No.1 continued to act against the R6 and has with malafide intent addressed the letter dated 3/09/2012 to the Bank. In addition to the above, the Ld. Sr. Counsel has also taken me through the reply of the R1 alongwith the documentary proof showing that the Petitioner No.1 has been carrying on competitive business and has been promoting his company M/s Steel Man FZCO and according to the Respondent's Counsel the Petitioner No.1 has been using a credentials of the R6 to promote his business which is evident from the name "Man Steel FZCO" reflected on its letter head and the said company was using the website of the R6 for its business. It is further reiterated that the Petitioner No.1 got diverted an assignment to layout pipes to an extent of 100 Km from one M/s Green Refinement Company of Iran to its company with the connivance of Mr. Sanjeev Dheer resulting that the assignment was reduced to mere 55 Km. Thus, the R6 was put to heavy wrongful loss by the Petitioners. Based on the above, the Ld. Sr. Counsel for the Respondents has submitted that the Petitioners are not entitled to any reliefs due to the misconduct committed by the Petitioner No.1

69. After considering the rival submissions, I have no hesitation to hold on the basis of the material available on record that this is the Petitioner No. 1 who is conducting a competitive business in the name of Steel Man FZCO. The Respondents have filed reliable documentary evidence to establish that he was responsible to get diverted an assignment for laying out the pipes in Iran to its company resulting that the assignment was reduced to 55 KM instead of 100 KM. Though, there is no direct evidence available on record against the Petitioner No. 1 but the material and documents produced by the Respondents and the circumstances do indicate that the Petitioner No.1 is involved in competitive business in Gulf Countries through his nephew (sister's son) and is also poaching the employees and official of the R6 Company which has led loss to the R6 Company. On the other side, the Petitioners have failed to prove the allegations that the R1 or his son is carrying a competitive business that has adverse effect in the interest of the R6 Company. I, therefore, hold that the Petitioners have failed to substantiate the charge as well.

70. Upon examination of the petition from the legal angle also, I do not find it a fit case for grant of reliefs. It is settled proposition of law that for a petition under Section 397/398 of the Companies Act to succeed, it is obligatory on the Petitioner to show that there is just an equitable cause for winding up of the Company. In this case, the Petitioners have failed to prove the aforesaid essential ingredient in order to succeed their petition. The grievance of the Petitioner No.1 mainly relating to stripping of his powers as Managing Director and Vice Chairman of the R6



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Company. This cannot in my opinion, be said his proprietary rights as a shareholder. The Petitioners have mainly relied upon the mis-management in the affairs of the Company which is defined under Section 398 of the Act. After having careful examination of the allegations as discussed hereinabove, I have come to the conclusion that the acts complained of relating to mis-management are repetition of the earlier petition which was dismissed on merits and against which no appeal was preferred and hence such pleas cannot be re-agitated on the principle of res-judicata and estoppel. I would like to place reliance upon the cases of [1] **S. P. Jain Vs/ Kalinga Tubes Ltd. [1965] AIR 1535, 1965 SCR (2) 720 Bench : Wanchoo, K.N. [2] Hanuman Prasad Bagri & Ors. Vs. Bagrees Cereals Pvt. Ltd. & Ors. [2001] 4 Supreme Court Cases 420**. I may like to extract the relevant part of the case of the **Hanuman Prasad Bagri (Supra)** hereasunder :-

*"Section 397 (2) of the Act provides that an order could be made on an application made under sub-section (1) if the court is of the opinion- (1) that the Company's affairs are being conducted in a manner prejudicial to public interest or in a manner oppressive of any member or members; (2) that the facts would justify the making of a winding-up order on the ground that it was just and equitable that the Company should be wound up; and (3) that the winding-up order would unfairly prejudice the applicants. No case appears to have been made out that the Company's affairs are being conducted in a manner prejudicial to public interest or in a manner oppressive of any member or members. Therefore, we have to pay our attention only to the aspect that the winding up of the Company would unfairly prejudice the members of the Company who have grievance and are the applicants before the court and that otherwise the facts would justify the making of a winding-up order on the ground that it was just and equitable that the company should be wound up. In order to be successful on this ground, the Petitioners have to make out a case for winding up of the company on just and equitable grounds. If the facts fall short of the case set out for winding up on just and equitable grounds no relief can be granted to the Petitioners. On the other hand the party resisting the winding up can demonstrate that there are neither just nor equitable grounds for winding up and an order for winding up would be unjust and unfair to them. On these tests, the Division Bench examined the matter before it.*

71. I therefore, conclude that though the Petitioners are not entitled to any relief sought for. However, considering the violation of the Court's order for the limited relief of cancellation of the issue and allotment of 26,64,000 shares in favour of R16(a) to (c) is being granted.

72. Further, the R6 is a public listed company. In addition to the parties, there are approximately 20,000 public investors who have invested their money by subscribing to the shares of the Company. As is evident from the narration of the facts of the case, there are severe differences between the Petitioner No.1 and his



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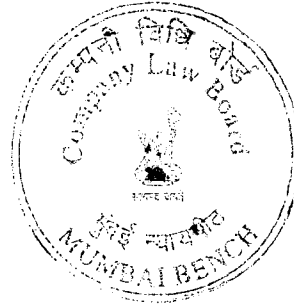
Group members and the Respondent No.1 and his Group members. It is further evident that the Petitioners have filed this petition just almost within a year from the decision in his earlier petition. This possibility may not be ruled out that the Parties due to their altar ego may further indulge in more litigation and/or similar activities which may lead loss to the reputation and economy of the company adversely affecting the value of the shares on account of which the public at large may suffer.

73. Keeping in mind all the facts stated above, I personally intervened and tried to convince both the Groups to find out an amicable solution in the paramount interest of the Company and its shareholders, but I failed. I also referred the parties to Mr. Rafique A. Dada a Senior Advocate who has in his credit successfully solving the disputes among the renowned Industrial Families of the Country out of court. But it also did not work out. I recall a "sholaka" from our shastra describing the crucial result that comes out when the differences between two brothers bleed into their relation which I may like to reproduce here as under:-

"  
अपाश्म नीर्मल्यमथो मृदुत्वा  
जलाशये श्यामलतां तनेति  
आगविरोधां च तमो विवदन्ति  
प्रावृड् यथा आतुष मीमनस्याम् "

74. The meaning of the above "sholaka" is that as the rainy water fades away the cleanliness, purity and softness of the water of a reservoir during the rainy reason, similarly the emotional and cordial relation between the two real brothers becomes extinct in case, discord and distrust crept into their relationship and they try to wipe out each other by creating obstructions and hindrances in their mutual growth and prosperity for no reason.

75. I am, therefore, of the view that final disposal of this petition either way may not be a permanent solution. In the facts of this case, it is established that it is not possible for both the Groups to carry on the business of the Company together and the only solution in my view is that One Group of Shareholder should purchase the shares of the Other Group. I, therefore, deem it appropriate to direct the Respondent Group who is admittedly in control and management of the Company to purchase the shares of the Petitioner Group within a period of 90 days after receiving an offer in writing to sell their shares. In case, they refuse to purchase the shares of the Petitioners, in that eventuality, the Petitioners may purchase the shareholding of the Respondent Group. Since the company is a public limited company and its shares are already listed therefore the appointment of Valuer is not required to determine the fair value of shares.



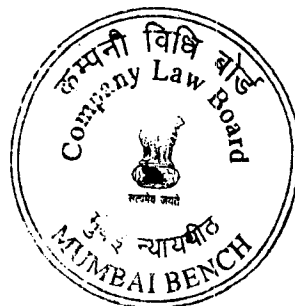
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76. Now I will deal with the pending Company Applications filed by the Parties during the pendency of the instant company petition. The first application being C.A No. 209 of 2012 has already been dealt in the body of the judgment holding the Respondents guilty for committing violation of the undertaking dated 17/10/2012 given by them to this Bench by making allotment of 26,64,000 shares to R16 (a) to (c). I have also concluded that the impugned allotment of aforesaid shares requires to be cancelled and status quo ante is to be restored as it existed on the date of filing of the petition. However, the other prayer made by the Petitioner to refer the contemptors to face the trial for awarding punishment of imprisonment is not needed in view of the background of the case referred hereinabove the preceding para No.16. This application thus stands disposed off.

77. Second application being C.A No. 16 of 2013 has been moved on behalf of the R1 and R2 praying therein to pass an order thereby restraining the Petitioners from taking any steps in pursuance to their notice dated 15/01/2013 through which they have sought to call an Extra Ordinary General Meeting under the provisions contained in Section 284 read with 190 of the Companies Act for removal of directors. In my opinion, a shareholder is entitled to serve this notice and call for the meeting mentioned above for the said purpose as per law. I do not find any reason to allow this application. It is liable to be dismissed and is dismissed accordingly. C.A stands disposed off.

78. Third application being C.A No. 17 of 2013 has been moved on behalf of R1 for punishing the Petitioners for committing the violation of their undertaking given by them through their Counsel to this bench on 19/12/2012 by which they had given an undertaking not to reveal / disclose the information or contents of the Auditor's Report prepared by M/s Haribhakti & Co., to any third party except their Law officer. The said application has also been disposed off by me in the body of the judgment hence no further adjudication is required.

79. The next application being C.A No.20 of 2013 has been filed by R6 seeking permission to implement the resolution being item No.12 of the Agenda of the meeting of the Board of Directors held on 15/01/2013 whereby a decision was taken for removal of Petitioner No.1 as Vice Chairman and Managing Director of R6 Company who is under suspension. I have considered this application. It is held in the judgment that the Petitioner No.1 is running parallel competitive business and thus it is rightly contended that in the interest of company he cannot be allowed to act as Vice Chairman and Managing Director of the Company. I do not find any irregularity in the removal of the Petitioner No.1 as Vice Chairman and managing director of R6 Company and I, therefore, hold that the decision may be implemented by R6. The application is thus disposed off.



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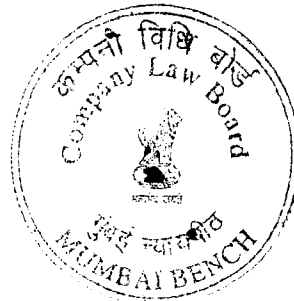
80. The Petitioner No.4 has filed next application being C.A No. 24 of 2013 praying therein to vacate the interim order dated 24/01/2013 and to permit to hold the EOGM. It is further prayed that the R16, its trustees, servants, agents or assigns be restrained from in any manner whatsoever exercising any rights including voting rights in respect of impugned 26,64,000 equity shares of R6. It is further prayed that the Petitioner be allowed to share the copy of Supplementary Audit Report with the shareholders of the R6. I have considered this application. Since the allotment of 26,64,000 shares are to be cancelled as held above, therefore, it deems just, appropriate and proper that the R16 (a) to (c) be restrained from exercising any rights including the voting rights in respect of the said shares. The application is disposed off accordingly.

81. The last application being C.A No. 29 of 2013 has been filed by the Petitioners to punish the Respondents for committing contempt of the order dated 24/01/2013 passed by this Bench by which they were directed to pay the salary and allowance of the Petitioner No.1 directly to him. I have considered this application, undisputedly, the Petitioner No.1 is now getting the salary as per direction of the Bench. Therefore, this application deserves to be dismissed.

82. Based on the above discussions, the petition is disposed off in the following manner:-

**ORDER**

1. It is declared that meeting of the Compensation Committee purportedly held on 15/10/2012 is illegal and their decision to allot 26,64,000 shares to ESOPS is non-est, ineffective and invalid being in contravention of the Undertaking tendered by the R6 Company through its Counsel before the Bench on 11/10/2012. Accordingly, the issue and allotment of impugned 26,64,000 shares in favour of the R16 (a) to (c) is hereby cancelled. The status-quo ante in respect of the shareholding pattern of the R6 Company, as it existed on 11/10/2012 is restored. The R6 Company and its present Board of Directors are directed to take steps accordingly. The ROC, Mumbai shall do needful to comply with the direction. However, it is clarified that this order shall not be treated as a permanent embargo in implementing the earlier decision of the company to allot and issue the shares to ESOS/ESOPS and the Company may implement its decision in accordance with law after expiry of the period of Appeal, if no appeal is preferred against this order.
2. In case, the Petitioners offer to sell their respective shareholding, the Respondents shall be bound to purchase it within 90 days of the receipt of their offer in writing at the price per share which is being quoted in NSE/BSE





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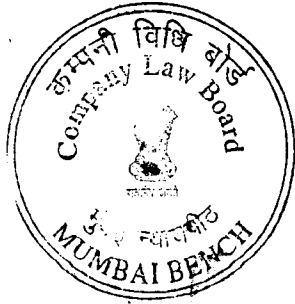
on the date of receipt of such offer. In case, they refuse to purchase their shares and/or fail to purchase the shares within the stipulated period as directed above, the Petitioners shall be entitled to purchase the shareholding of the Respondents on the said value, within 90 days in the same manner mentioned above.

3. The Petitioners are free to act upon their notice thereby calling upon the EOGM. The R6 Company is directed to take necessary steps in accordance with law. The interim stay, if any, is hereby vacated.
4. The Respondents are granted liberty to act upon the resolution whereby they had resolved to terminate/ remove the Petitioner No.1 as Vice Chairman cum Managing Director of the R6 Company. Necessary steps may be taken in this regard by them. The interim order staying the removal of the Petitioner No.1 as Vice Chairman cum Managing Director of the Company is accordingly vacated. However, this direction is prospective in nature and the amount paid as salary + perks to the Petitioner No.1 under the direction of the CLB shall not be refundable.
5. The remaining reliefs sought for by the Petitioners are hereby declined.
6. No order as to costs.
7. C.P stands disposed off in the above terms. All the pending C.As stands disposed off. However, the Parties are granted liberty to seek clarification if required in the implementation of the directions, despite the C.P being disposed off.
8. Let the order be circulated to all concerned and another copy be sent to the ROC, Mumbai.

Sd-

**A.K.Tripathi**  
Member (Judicial)

Dated this May 30, 2013.



CERTIFIED TO BE TRUE COPY

*U.P. Parmar*

**U.P. PARMAR, ICLB**  
Bench Officer  
Company Law Board  
Mumbai Bench

Dated:.....*31/5/13*.....201

October 01, 2013

To,  
The General Manager,  
Department of Corporate Services,  
BSE Limited,  
Phiroze Jeejeebhoy Towers,  
Dalal Street, Fort, Mumbai 400 001  
BSE Scrip Code: 513269

Dear Sir,

**Subject: Undertaking on Cancellation of ESOP Shares**

With reference to the captioned subject we would like to clarify as following:

- 1) The ESOP shares bearing distinctive nos 57103056 – 59767055 were allotted in physical mode to the MIL Employee Welfare Trust and the Share Certificate was issued in the name as under :
  - a) Mr. Pramod Kumar Tandon
  - b) Mr. Annavarapu Venkat Rammurthy
  - c) Mr. Devidas Kambale
- 2) Pursuant to the order of the Honorable Company Law Board vide its order dated May 30, 2013 the said ESOP shares were cancelled and requisite Form 21 was filed with the Registrar of Companies.
- 3) Please be informed that no ESOP shares were never sold/traded in the market and as on the date of cancellation of shares they were held by MIL Employee Welfare Trust.

Thanking you,

Yours faithfully,

For **Man Industries (India) Limited**



Ashikesh Vyas

Group Company Secretary & Chief Compliance Officer

# FORM 21

Notice of the court or the company law board order or any other competent authority

[Pursuant to section 17(1), 17A, 79,81(2), 81(4), 94A(2), 102(1), 107(3), 111(5), 141, 155, 167, 186, 391(2), 394(1), 396, 397, 398, 445, 466, 481, 559 and 621A of the Companies Act, 1956]

Form Language  English  हिन्दी

**Note - All fields marked in \* are to be mandatorily filled.**

1.(a) \*Corporate identity number (CIN) or foreign company registration number (FCRN) of the company

(b) Global location number (GLN) of company

2.(a) Name of the company

(b) Address of the registered office or of the principal place of business in India of the company

(c) \*e-mail ID of the company

3.(a) \*Order passed by

(b) Name of the court or company law board (CLB) or any other competent authority

(c) \*Location

(d) \*Petition or application number

(e) \*Order number

4. \* Date of passing the order  (DD/MM/YYYY)

5.(a) \* Section of the Companies Act under which order passed

(b) If others, mention

6. \* Number of days within which order is to be filed with Registrar (To be entered pursuant to aforesaid sections or in terms of court order or CLB order or order of the competent authority, as the case may be)

7. \* Date of application to court or CLB or the competent authority for issue of certified copy of order  (DD/MM/YYYY)

8. \* Date of issue of certified copy of order  (DD/MM/YYYY)

9. Due date by which order is to be filed with Registrar  (DD/MM/YYYY)

10. In case of compounding of offence, enter Service request number (SRN)(s) of Form 61

# MINISTRY OF CORPORATE AFFAIRS

## RECEIPT

G. A. R. 7

SRN : B76889765

Service Request Date : 12/06/2013

### Received From :

**Name** : MANAN SHAH  
**Address** : A-35, SHIVTIRTH, KASTUR PARK ROAD  
BORIVALI (W)  
MUMBAI, MAHARASHTRA  
400092

### Entity on whose behalf money is paid

**CIN** : L99999MH1988PLC047408  
**Name** : MAN INDUSTRIES (INDIA) LIMITED  
**Address** : 101, MAN HOUSE, OPP. PAWAN HANS,  
S.V.ROAD, VILE PARLE (WEST),  
MUMBAI, MAHARASHTRA  
INDIA - 400056

### Full Particulars of Remittance

**Service Type:** eFiling

Service Description	Type of Fee	Amount(Rs.)
Fee For Form21	Normal	500.00
<b>Total</b>		500.00

**Mode of Payment:** Credit Card - null

**Received Payment Rupees:** Five Hundred only

**Note :** The defects or incompleteness in any respect in this eForm as noticed by the Registrar shall be placed on the Ministry's website ([www.mca.gov.in](http://www.mca.gov.in)). In case the eForm is marked as RSUB or PUCL, please resubmit the eForm or file Form 67 (Addendum), respectively. Please track the status of your transaction at all times till it is finally disposed off by the Registrar. (Please refer Regulation 17 of the Companies Regulation, 1956)

**It is compulsory to file Form 67 (Addendum) electronically within the due date whenever the document is put under PUCL by the ROC, failing which the system will treat the document as invalid and will not be taken on record.**

11. In case of amalgamation, mention whether company filing the form is transferor or transferee  Transferor  Transferee

**(a) Details of transferee company**

CIN	<input type="text"/>	<input type="button" value="Pre-fill"/>
Name	<input type="text"/>	
Appointed date of amalgamation	<input type="text"/>	(DD/MM/YYYY)

**(b) Details of transferor company(s)**

Number of transferor company(s)

I. Category of the transferor company

CIN or FCRN or any other registration number	<input type="text"/>	<input type="button" value="Pre-fill"/>
Name	<input type="text"/>	
Appointed date of amalgamation	<input type="text"/>	(DD/MM/YYYY)
SRN of Form21	<input type="text"/>	

II. Category of the transferor company

CIN or FCRN or any other registration number	<input type="text"/>	<input type="button" value="Pre-fill"/>
Name	<input type="text"/>	
Appointed date of amalgamation	<input type="text"/>	(DD/MM/YYYY)
SRN of Form21	<input type="text"/>	

III. Category of the transferor company

CIN or FCRN or any other registration number	<input type="text"/>	<input type="button" value="Pre-fill"/>
Name	<input type="text"/>	
Appointed date of amalgamation	<input type="text"/>	(DD/MM/YYYY)
SRN of Form21	<input type="text"/>	

IV. Category of the transferor company

CIN or FCRN or any other registration number	<input type="text"/>	<input type="button" value="Pre-fill"/>
Name	<input type="text"/>	
Appointed date of amalgamation	<input type="text"/>	(DD/MM/YYYY)
SRN of Form21	<input type="text"/>	

V. Category of the transferor company

CIN or FCRN or any other registration number	<input type="text"/>	<input type="button" value="Pre-fill"/>
Name	<input type="text"/>	
Appointed date of amalgamation	<input type="text"/>	(DD/MM/YYYY)
SRN of Form21	<input type="text"/>	

12. In case of winding up, provide the following details

(a) (i) Date of commencement of winding up under section 445  (DD/MM/YYYY)

(ii) Income-tax permanent account number (Income-tax PAN)

(iii) Name of liquidator

(iv) Address of liquidator

Line I

Line II

City

State

Country

Pin code

(b) Date with effect from which winding up proceedings have been stayed under section 466  (DD/MM/YYYY)

(c) Date of dissolution under section 481  (DD/MM/YYYY)

(d) (i) Date with effect from which dissolution has been declared as void under section 559  (DD/MM/YYYY)

(ii) Whether the order is in the respect of company dissolved under section 394  Yes  No

(iii) If yes, provide details of the transferor company whose dissolution has been declared as void

CIN or FCRN

Pre-fill

Name

Date of amalgamation

 (DD/MM/YYYY)

13.(a) SRN of relevant form

(Mention the SRN of relevant Form 8, 10, 17, 18, 21, 23 or any other form; if applicable)

(b) Date of special resolution under section 102(1)  (DD/MM/YYYY)

(c) SRN of Form 24AAA

14. \* Whether penalty involved or not  Yes  No

If yes, SRN of payment of penalty

#### Attachments

1. \* Copy of court order or company law board order or order by any other competent authority

Attach

2. Optional attachment(s) - if any

Attach

#### List of attachments

CLB FINAL ORDER 31.05.2013.pdf

Remove attachment

**Verification**

To the best of my knowledge and belief, the information given in this form and its attachments is correct and complete  
 I have been authorised by the Board of directors' resolution number  dated   
 to sign and submit this form. (DD/MM/YYYY)

I further confirm that the due balance sheets and annual return for the last five years in respect of the transferor company have been filed with the office of the Registrar of Companies(RoC)

To be digitally signed by

Particulars of the person signing and submitting the form



\* Name

Capacity

\* Designation

Director identification number of the director or Managing Director; or Income-tax PAN of the manager or liquidator; or Membership number, if applicable or income-tax PAN of the secretary (secretary of a company who is not a member of ICSI, may quote his/ her income-tax PAN)

**Certificate**

It is hereby certified that I have verified the above particulars (including attachment(s)) from the records of

and found them to be true and correct. I further certify that all required attachment(s) have been completely attached to this form.

- Chartered accountant (in whole-time practice) or  Cost accountant (in whole-time practice) or  
 Company secretary (in whole-time practice)



\* Whether associate or fellow  Associate  Fellow

\* Membership number or certificate of practice number

For office use only:

eForm Service request number (SRN)  eForm filing date  (DD/MM/YYYY)

This e-Form is hereby registered

Digital signature of the authorising officer

Date of signing

(DD/MM/YYYY)