

%14.09.2009

Present: Mr. Kailash Vasdev, Sr. Adv. with Ms. Priyanka Telang for
the appellants
Mr. A. Subbarao, Adv. for the respondent

+ Co. A. (SB) No. 16/2009

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Mr. A. Subbarao, Adv. enters appearance on behalf of the respondent. He accepts notice and waives service. Mr. Subbarao has raised a preliminary objection with regard to the maintainability of this petition in this Court. In short, his submission is that all the parties reside at Goa and that the respondent companies are registered in Goa. In this regard, he relies on a decision of the Supreme Court in the case of Stridewell Leathers (P) Ltd. and Ors. Vs. Bhankerpur Simbhaoli Beverages (P) Ltd. and Ors. reported as (1994) 1 SCC 34, which relates to a matter of an appeal under Section 10-F, from an order of Principal Bench of the Company Law Board at Delhi, which was filed in the Delhi High Court, although, the company had its registered office at Madras. In the above mentioned case, the Supreme Court, in paragraph 18 thereof, concluded as follows:-

"18. For the aforesaid reasons, we are of the opinion that the expression "the High Court" in Section 10-F of the Companies Act means the High Court having jurisdiction in relation to the place at which the registered office of the company concerned is situated as indicated by Section 2(11) read with Section 10(1) (a) of the Act. Accordingly, in the present case, the appeal against the order of the Company Law

Board would lie in the Madras High Court which has jurisdiction in relation to the place at which the registered office of the company concerned is situate and not the Delhi High Court merely because the order was made by the Company Law Board at Delhi..... "

Mr. Vasdev, Sr. Advocate, after obtaining instructions from his client, prays for leave to withdraw this appeal with permission to move the Court of appropriate jurisdiction in this matter, in light of the aforesaid decision of the Supreme Court which has been pointed out by Mr. Subbarao. He is permitted to do so.

Mr. Subbarao, in all fairness and without prejudice to any defence that he may take with regard to either the maintainability or the merits of the appeal, as and when the same comes to be filed before the appropriate Court, submits that his client shall not press for a further hearing before the Company Law Board for a period of four weeks from today.

The appeal is dismissed as withdrawn in the above circumstances.

Co. Appl. No. 508/2009 in Co. A. (SB) No. 16/2009

Since the appeal has been dismissed as withdrawn, this application does not survive and is disposed of as such.


SUDERSHAN KUMAR MISRA, J.

September 14, 2009
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