**IN THE HIGH COURT AT CALCUTTA**

**(Constitutional Writ Jurisdiction)**

**APPELLATE SIDE**

**Present:**

**The Hon'ble Justice Krishna Rao**

**W.P.A. No. 6951 of 2024**

**With**

**CAN 1 of 2024**

**With**

**CAN 2 of 2025**

**With**

**CAN 3 of 2026**

**Ayushman Tie Up Pvt. Ltd. & Ors.**

**Vs.**

**Union of India & Anr.**

Mr. Krishnaraj Thaker, Sr. Adv.
Mr. Rudrajit Sarkar
Ms. Reshmi Ghosh
Mr. Tamoghna Saha

....For the petitioners.

Mr. Kumar Jyoti Tewari, Sr. Adv.
Mr. Anamika Pandey
Mr. Dinesh Bachan
Mr. Samriddhi Nayak
Mr. Amrit Sinha
Mr. Aniruddha Tewari

....For the Union of India.

Hearing Concluded On : 24.02.2026

Judgment on : 18.03.2026

**Krishna Rao, J.:**

**1.** The petitioners have challenged the notice dated 30th August, 2023, issued by the respondent no.2 under Section 217 of the Companies Act, 2013 for initiating investigation under Section 210 of the Companies Act, 2013.

**2.** On the basis of a private complaint of one Govind Kumar Sarda, notices under Section 206(5) of the Companies Act, 2013, were issued to the petitioners. On receipt of the notices, the petitioners have provided all requisite information and cooperated for such inspection.

**3.** On conclusion of inspection and preparation of reports, some of the petitioners received summons from the Learned Court of Chief Judicial Magistrate at Alipore wherefrom the petitioners came to know that the respondents have completed inspection and a report under Section 208 of the Companies Act, 2013 had been filed by the respondent authorities wherein minor violations of Section 129 of the Companies Act, 2013 and minor violation by the Auditor of the Company under Section 143 read with Section 147(2) of the Companies Act, 2013, has been alleged by the respondent authorities.

**4.** On the basis of the report, winding up petition was also filed against the petitioners under Section 271(c) or 271(e) of the Companies Act, 2013 before the National Company Law Tribunal, Kolkata by the

Registrar of Companies, West Bengal. The respondent authorities have accepted the report under Section 208 of the Registrar of Companies and recorded their findings that all the allegations which were made against the Company were found to be wrong and that the petitioner companies are not involved in any such business.

**5.** Mr. Krishnaraj Thaker, Learned Senior Advocate representing the petitioners submits that in the report submitted under Section 208 of the Companies Act, 2013, there is no recommendation for any investigation under Section 210 of the Companies Act, 2013. The Registrar of Companies ignoring the report filed under Section 208, only to harass the petitioners at the behest of some unknown person and some disgruntled family members without following the due process of law and ignoring the law laid down in the statute have passed an order for investigation under Section 210 of the Companies Act, 2013, which is not permissible under law.

**6.** Mr. Thaker submits that there are only three conditions when an investigation under Section 210 the Companies Act, 2013, can be made by the Central Government, namely: (a) upon the receipt of a report of the Registrar or inspector under Section 208 of the Companies Act, 2013, (b) upon an intimation of a special resolution passed by a company that the affairs of the company ought to be investigated and (c) in public interest, it may order an investigation into the affairs of the company. He submits that none of the conclusions stipulated in

Section 210 exists and thus the initiation of investigation under Section 210 is bad.

**7.** Mr. Thaker submits that the respondents are acting de hors the law and the provisions of the Companies Act, 2013, again issuing notice under Section 217 of the Companies Act, 2013, for initiation of investigation under Section 210 of the Act of 2013. He submits that though the respondent authorities have prepared positive report and accepted and acting on the same but now ignoring their own report in a clandestine and mechanical way proceeding for further investigation which the law does not permit.

**8.** Mr. Thaker submits that based on the similar facts, the Company, namely, Ankur Tie Up Private Limited had filed a writ petition challenging the action of the respondent authorities in WPA No. 24360 of 2023 and the Coordinate Bench of this Court set aside the notices for further inspection under Section 217 of the Act of 2013.

**9.** The petitioners in support of their submissions, have relied upon the following judgments:

***(i)*** ***Parmeshwar Das Agarwal vs. Additional Director (Investigation)*** *reported in* ***(2016) 199 Comp Cas 353****.*

***(ii)*** ***Barium Chemicals Ltd. vs. Company Law Board*** *reported in* ***(1966) 36 Comp Cas 639.***

***(iii)*** ***Rohtas Industries vs. S.D. Agarwal*** *reported in* ***(1969) 1 SCC 325.***

***(iv) Nita Puri vs. Union of India in W.P. (C) 261/2025 & CM APPL. 1249/2025, 5825/2025.***

***(v) Alchemist Infra Reality vs. Union of India being W.P. (C) 7529/2012 & CM APPL. 19148/2012, 14112/2014***.

***(vi) Nazir Ahmad vs. King Emperor*** *reported in* ***AIR 1936 PC 252 (2)***.

***(vii) Municipal Corporation of Greater Mumbai vs. Abhilash Lal*** *reported in* ***(2020) 13 SCC 234***.

**10.** Mr. Kumar Jyoti Tewari, Learned Senior Advocate representing the respondents submits that in the order dated 11th May, 2022, issued by the respondent no.2, it is categorically mentioned that Regional Director, Eastern Region vide a letter dated 11th June, 2021, has submitted a proposal for investigation of all the group of companies of Sarda (Ghanshyam/ Govind Kumar) group of companies and the matter has been considered by the Ministry and it is of the view that the matter is serious in nature and therefore investigation of all the companies may be ordered under Section 210(1)(a)&(c) of the Companies Act, 2013, to be conducted by the Regional Director, Eastern Region and the Regional Director, Northern Region for 162 and 24 companies respectively and to submit consolidated report by both Regional Directors (RDs) for their region within 6 months in public interest.

**11.** Mr. Tewari submits that on receipt of the report under Section 208 of the Companies Act, 2013, the Ministry has passed an order for investigation under Section 210 of the Companies Act, 2013. He submits that Sections 223 and 224 of the Companies Act, 2013, provides for investigation and not for inspection.

**12.** Mr. Tewari submits that in the winding up petition filed before the Learned National Company Law Tribunal, it is categorically mentioned that no plausible narration has been given in the books of accounts and it appears that it has given to a party without any commercial basis or benefit to the companies. It appears that it is a pure siphoning off funds of the company where directors have not discharged their duty with due and reasonable care, skill and diligence. It is also mentioned that the directors have not acted in good faith to promote the objects of the company and its shareholders. It is clear that the company is involved in fraud by working as a vehicle of fund round tripping.

**13.** Mr. Tewari submits that on receipt of the notice dated 30th August, 2023, the petitioners have submitted a request on 18th September, 2023, wherein the petitioners have prayed for time to respond to the notice but instead of filing reply, have filed the instant writ application. He submits that while obtaining the interim order on 3rd July, 2024, the petitioners have made incorrect submission that steps under Section 224 has already been taken by the Central Government and prosecution has been commenced.

**14.** Mr. Tewari submits that recommendation is not binding and as per Section 226 of the Companies Act, 2013, even winding up the company, investigation cannot be stopped.

**15.** Mr. Tewari relied upon the judgment in the case of ***Serious Fraud Investigation Office and Others Vs. Sahara Housing Investment Corporation Limited and Others*** reported in ***(2022) 9 SCC 794*** and submits that the very purpose of an investigation is to enquire into the affairs of the company and the entirety of the material will emerge only in the course of the investigation.

**16.** As per the direction of the Ministry, books of accounts and other papers were called for under Section 206 of the Companies Act, 2013 and inspection and inquiry was conducted under Section 207 of the Act of 2013. On completion of inquiry and inspection, a report under Section 208 was submitted. Conclusion of the report reads as follows:

> ***"CONCLUSION***
>
> *It is observed that complaints are made by Govind Kumar Sarda Group and Ghanshyam Sarda Group through their associates against each other. These complaints have been filed before various authorities like PMO, SEBI, ED, CBI, Income Tax Department and others. All these complaints have been rerouted to Ministry of Corporate Affairs to examine the facts of the complaints. Analysis of all the complaints which has come through inspection and LLPs for which investigation has been ordered by the Ministry of Corporate Affairs.*
>
> *Major facts of allegations are operation of shell companies, tax evasion, siphoning of funds & diversion of funds, fraud on bank loans etc.*

> *During the course of inspection, books of accounts and other papers of the company are examined and no instance of such allegation has been found in the present company. However, during the course of inspection some violation and irregularities of the Companies Act are observed/ detected and same are reported in this report under Part- A, B, C and D.*
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> *It is also observed that both the groups are maintaining large number of companies and they kept their employees as director in such companies. The real beneficiaries are the two brothers i.e. Govind Kumar Sarda and Ghanshyam Sarda who have basically controlled all the companies.*
>
> *The Company's existence is only in name without serving, any economic purpose, hence, striking off the name of the Company u/s 248 of the Companies Act, 2013 is recommended."*

**17.** As per conclusion of report, the Registrar of Companies, West Bengal has filed an application before the Learned National Company Law Tribunal, Kolkata Bench under Section 271(c) of the Companies Act, 2013 for winding up the company of the petitioners. In the winding up petition, it is the specific case of the Registrar of Companies that the Ministry of Corporate Affairs after examining the inspection report, directed to file winding up petition before the Learned Tribunal under Sections 271(c) and 272(1)(d) of the Companies Act, 2013. The Registrar of Companies deems fit that the company is liable to be wound up by the Tribunal under Section 271(c) of the Companies Act, 2013.

**18.** The Registrar of Companies has also filed a Complaint Case before the Learned Chief Judicial Magistrate at Alipore being Complaint Case No.

120 of 2020 against the petitioners. In the said complaint, it is the allegations that the petitioners have violated the provisions of Section 129 and 143 of the Companies Act, 2013.

**19.** Subsequent to filing of applications for winding up of companies and complaint case before the Learned Court of the Chief Judicial Magistrate at Alipore, the respondents have issued the impugned order dated 30th August, 2023, under Section 217 of the Companies Act, 2013 for investigation into the affairs of the company under Section 210 of the Companies Act, 2013.

**20.** Section 210 of the Companies Act, 2013 reads as follows:

> ***"210. Investigation into affairs of company.—(1)*** *Where the Central Government is of the opinion, that it is necessary to investigate into the affairs of a company,—*
>
> > *(a) on the receipt of a report of the Registrar or inspector under section 208;*
> > *(b) on intimation of a special resolution passed by a company that the affairs of the company ought to be investigated; or*
> > *(c) in public interest,it may order an investigation into the affairs of the company.*
>
> ***(2)*** *Where an order is passed by a court or the Tribunal in any proceedings before it that the affairs of a company ought to be investigated, the Central Government shall order an investigation into the affairs of that company.*
>
> ***(3)*** *For the purposes of this section, the Central Government may appoint one or more persons as inspectors to investigate into the affairs of the company and to report thereon in such manner as the Central Government may direct."*

**21.** The respondents have disclosed the order dated 11th May, 2022 wherein the Ministry of Corporate Affairs is of the view that the matter is serious in nature and therefore, investigation is to be conducted under Section 210(1)(a)&(c) of the Companies Act, 2013. Section 210(1) provides that if the Central Government is of the opinion that it is necessary to investigate into the affairs of the Company: (a) on the receipt of a report of the Registrar or inspector under Section 208 and (c) in public interest.

**22.** As per the report submitted under Section 208, winding up proceeding and complaint cases have been initiated. In the said report, there is no recommendation for investigation under Section 210 of the Companies Act, 2013. Three Joint Directors, one Deputy Registrar of Companies and one Assistant Registrar of Companies have jointly submitted report under Section 208 of the Companies Act, 2013 on 31st October, 2019. From the order dated 11th May, 2022, it reveals that the Regional Director, Eastern Region has submitted his proposal on 11th June, 2021, that is after the period of 20 months from the date of receipt of the report under Section 208 of the report.

**23.** In the report filed under Section 208 of the Companies Act, 2013 dated 31st October, 2019, it is mentioned that major facts of allegations are operation of shell companies, tax evasion, siphoning off funds and diversion of funds, fraud on bank loans etc. It is further mentioned that during the course of inspection, books of accounts and other papers of the company are examined and no instance of such allegation has been found in the present company. However, during the course of inspection some violation and irregularities of Companies Act are observed and detected.

**24.** Taking into the conclusion of the report under Section 208 of the Companies Act, 2013, proceeding for winding up the companies have been filed before the Learned National Company Law Tribunal and complaint case before the Learned Chief Judicial Magistrate under the Companies Act, 2013, is also initiated.

**25.** In the case of ***Parmeshwar Das Agarwal (supra),*** the Hon'ble Division Bench of the Bombay High Court held that:

> ***"48.*** *We do not think that there were materials in the present case and which can be termed as enough to warrant the exercise of power by the Central Government by resorting to section 212(1) of the Act of 2013. The Central Government, in the order under challenge, did not spell out any circumstances, except outlining its power under the above sections to order investigation into the affairs of a company in public interest. None disputes that power or its existence. In paragraph 2 of the impugned order, however, a reference is made to the report of the Registrar of Companies, West Bengal, dated January 13, 2016. We have already held that the findings in this report are not enough for the Central Government to exercise the drastic power. Something more was required and to be established as circumstances or material enough for exercise of the power. That is clearly lacking in this case."*

In the present case also, the Central Government also did not spell out any circumstances how the Ministry is of the view that the matter is serious in nature though the report filed under Section 208 of the Companies Act, 2013, is otherwise.

**26.** In the case of ***Barium Chemicals Ltd. (supra),*** the Hon'ble Supreme Court held that:

> ***"20.*** *To sum up, then, our conclusions may be stated thus : The discretion conferred on the Central Government by section 237(b) to order an investigation and delegated by it to the Company Law Board is administrative, that it could be validly exercised by the Chairman of the Board by an order made in pursuance of a rule enacted by the Central Government under section 642(1) read with section 10E(5), that the exercise of the power does not violate any fundamental right of the company, that the opinion to be formed under section 237(b) is subjective and that if the grounds are disclosed by the Board the court can examine them for considering whether they are relevant. In the case before us they appear to be relevant in the context of the matter mentioned in sub-clauses (i) to (iii) of section 237(b). Though the order could be successfully challenged if it were made mala fide, it has not been shown to have been so made. The attack on the order thus fails and the appeal is dismissed with costs."*

In the case in hand, the Regional Director has submitted a proposal for investigation and the Ministry is of the view that the matter is serious in nature but what was the proposal submitted by the Regional Director is not disclosed and no opinion of the Ministry is disclosed. Once after inspection of books of accounts and other papers of the company no allegation was found regarding operation of shell companies, tax invasion, siphoning off funds, diversion of funds and fraud on bank loans how the Regional Director has submitted proposal for investigation.

**27.** Considering the above, this Court finds that the order disclosed by the respondents in their application being CAN No. 1 of 2024 on the basis of which the impugned notice 30$^{th}$ August, 2023, is issued under Section 217 of the Companies Act, 2013 for investigation under Section 210 of the Companies Act, 2013 is without any substance and accordingly, the notice dated 30$^{th}$ August, 2023, is set aside and quashed.

**28.** **WPA No. 6951 of 2024** is **allowed**. **CAN No.1 of 2024** is **dismissed**. **CAN No. 2 of 2025** and **CAN No.3 of 2026** are accordingly **disposed of**.

Parties shall be entitled to act on the basis of a server copy of the Judgment placed on the official website of the Court.

Urgent Xerox certified photocopies of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

**(Krishna Rao, J.)**