



W.P. No.25192/2012

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
15.06.2026	25.06.2026

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

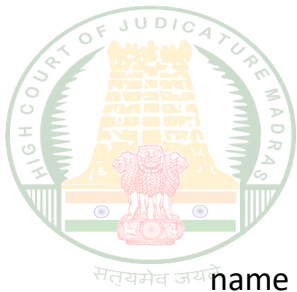
W.P. NO. 25192 OF 2012

Sungwoo Gestamp Hitech (Chennai) Ltd.
Rep. By its Managing Director
Mr.Sung Ki Min
M/s.Sungwoo Gestamp Hitech (Chennai) Ltd.
Plot No.G-16-18, SIPCOT Industrial Park
Irungattukottai, Sriperumbudur 602 105. .. Petitioner

- Vs -

State Industries Promotion Corporation of
Tamil Nadu Ltd. Rep. By its
Chairman & Managing Director
No.19-A, Rukmini Lakshmipathi Road
Egmore, Chennai 600 008. .. Respondent

Writ Petition filed under Article 226 of the Constitution of India praying
this Court to issue a writ of certiorarified mandamus calling for the records of the
respondent pertaining to impugned letters bearing Ref.
Nos.DII/IRU/JBMSungwoo/2011 dated February 14, 2012
D-II/IRU/JBM/Sungwoo/2011 dated June 20, 2012 and quash the same and
consequently directing the respondent to grant post facto approval to change in



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name from JBM Sungwoo Limited to Sungwoo Gestamp Hitech (Chennai) Limited, which is the present name of the petitioner and also to change in shareholding pattern of the petitioner.

For Petitioner : Mr. K.Harishankar

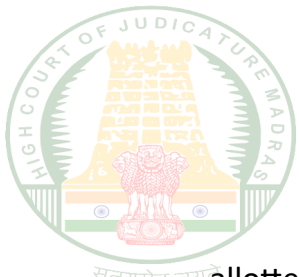
For Respondent : Mr. P.V.Balasubramanian, AAG
Assisted by Mr.Abishek Murthy,
Standing Counsel

ORDER

The differential land cost imposed by the respondent on the petitioner for not obtaining prior permission for the change in name and shareholding pattern of the petitioner by invoking the provisions of the allotment order is put in issue before this Court through the present petition.

2. The facts in the present case, in a nutshell, could be summarised thus :-

The petitioner was incorporated as under a Joint Venture Agreement (for short 'JV') between M/s.JBM tools Ltd. (for short 'JBM') and M/s.Sungwoo Hitech Company Ltd., Korea (for short 'Sungwoo'). It is further averred that the petitioner was previously known as Technical Stampings Automotive Ltd. (for short 'TSAL') prior to which it was known as JBM Sungwoo Ltd., which was



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allotted Plot Nos.G-16, G-17 and G-18 by the respondent for the purpose of manufacture of metal components for automobile.

3. It is further averred that originally plots G-17 and G-18 were allotted pursuant to allotment order dated 25.7.1997 and Plot G-16 was allotted pursuant to allotment order dated 6.6.2003. Pursuant to the allotment order, the respondent entered into lease deeds dated 30.7.1998 26.6.2003 in respect of plots G-17 and G-18 and G-16 respectively.

4. It is further averred that the name of the petitioner was changed from TSAL to the present name with effect from 17.8.2009 consequent to the sale of 50% of shares of TSAL held by Tata Autocomp Systems Ltd. (for short 'Tata') to GESTAMP Toledo S.M. (for short 'Gestamp'). It is further averred that the petitioner's name was changed from JBM Sungwoo Ltd., to TSAL with effect from 29.11.2005, which was communicated to the respondent on various occasions with a request to the respondent to effect the name change at the earliest to TSAL, but there was no reply from the respondent.



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5. It is further averred that consequent upon the request of the respondent vide its communication dated 22.12.2005, the petitioner furnished the information including the list of directors and the existing share holding pattern of the company. Thereafter, vide letter dated 15.2.2006, the respondent requested the petitioner to furnish detailed information of the shareholding pattern of the petitioner as well as the shareholding of the present directors in response to which the petitioner had furnished the shareholding pattern of the company and further informed the fact that the directors of the company did not hold any shares in the company. Thereafter, vide letter dated 29.3.2006, the respondent once again requested detailed information of the shareholding pattern of the petitioner and the shareholding of the present directors, duly certified by the Chartered Accountant as well as the reason for change in name of the company.

6. It is further averred that a further communication was addressed by the respondent dated 2.8.2006 calling upon the petitioner to submit a copy Form 2 filed with the Registrar of Companies with regard to allotment of shares and also a copy of revised Form 2 filed subsequently with the Registrar of Companies along with the date on which the allotment of shares was allotted, to which the



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petitioner, in its response vide letter dated 4.8.2006 had submitted that Form 2 is required to be submitted for initial allotment of shares and not transfer of shares and enclosed copies of the annual returns filed with the Registrar of Companies prior to the transfer of shares for the year ending 31st March, 2003 and post such transfer, for year ending 31st March, 2004 evidencing completion of formalities.

7. It is further averred that vide letter dated 10.11.2006, the respondent had informed that the shareholding pattern of the petitioner had been changed twice, which was in violation of Clause 18 of the order of allotment and Clause 35A of the lease deed and called upon the petitioner to inform as to why prior permission of the respondent had not been obtained and justification for change in name and shareholding pattern. The petitioner, vide their communication dated 29.12.2006 informed the respondent that though the shareholders had changed, the shareholding pattern had not been changed as the original promoters have now directly invested in the project and requested the respondent to condone the omission of not informing about the change in shareholders and approve the change in name.



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8. It is further averred that the respondent once again requested for details of shareholders, percentage of shareholding certified by a Chartered Accountant as well as incorporation certificate issued by the Registrar of Companies for name change of the promoter company from Sungwoo Metal Company to Sungwoo Hitech Company Ltd., vide letter dated 23.2.2007. The petitioner, vide their letter dated 28.2.2007 submitted the certified copy of the certificate of business registration issued by the Korean Tax Authority regarding the name change and the true copy of the certificate issued by TATA AutoComp Systems Ltd. (for short 'TACO') certifying that TACO and Tata Industries Ltd., were promoters of JBM Tools Ltd and the audited annual accounts were also furnished. Once again the respondents, vide letter dated 24.4.2007 requested for details of shareholders and percentage of shareholding of M/s.Sungwoo Metal Company and M/s.Sungwoo Hitech Co. Ltd., to which the petitioner, vide letter dated 23.5.2007 clarified that the percentage of shareholding had already been informed vide letter dated 3.7.2006 and the change in name has also been informed and the required certificate from the Korean Tax Authority was also enclosed vide letter dated 28.2.2007 and request was made to the respondent to approve the name change.



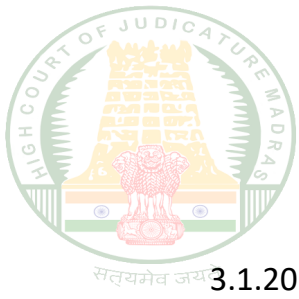
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9. The details sought for with regard to the shareholding pattern and percentage of shareholding in JBM Sungwoo as requested by the respondent was also provided by the petitioner. Thereafter, the petitioner, vide letter dated 29.12.2008 requested the respondent to approve the shareholding of the company, TACO, which is one of the parties in the JV of the petitioner, which had entered into an agreement to sell its entire shareholding to GESTAMP and the acknowledgement in this regard was also obtained.

10. It is further averred that vide letter dated 24.2.2009, the respondent requested for the submission of the shareholding pattern of JBM Sungwoo Ltd., as the time of allotment and before and after its change of name to TSAL, shareholding pattern of M/s.Sungwoo Metal Company and M/s.Sungwoo Hitech Company Ltd., with percentage of shares, existing share and present shareholding pattern of GESTAMP as well as the last three years annual reports of TSAL and GESTAMP.

11. It is further averred that the petitioner specifically informed the respondent about the change in name from TSAL to Sungwoo Gestamp Hitech (Chennai) Ltd., vide letter dated 30.11.2010, but curiously, the letter dated



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3.1.2011 was received from the respondent stating that no particulars had been provided and that the company had changed the name twice without prior approval of the respondent and also sought for the details of the shareholding pattern of JBM Sungwoo at the time of allotment and before and after its change of name to TSAL, shareholding pattern and Board of Directors of Sungwoo Gestamp Hitech (Chennai) Ltd., as well as the annual reports of JBM Sungwoo Ltd., memorandum of Articles of Association with certificate of incorporation and forms filed with Registrar of Companies for change of directors/shareholders.

12. Vide letter dated 12.8.2011, the respondent intimated that without approval of the respondent the name of the petitioner has been changed thrice and the shareholding pattern has not been furnished, which is in violation of Clause 18 and 19 (a) of the Order of Allotment and Clause 35 (a) of the lease deed and the petitioner was directed to show cause as to why the allotment should not be cancelled. After obtaining time extension, the petitioner vide letter dated 02.11.2011 furnished all the details requested by the respondent vide their letter dated 3.1.2011, including shareholding pattern and Board of Directors of TSAL, Sungwoo Gestamp Hitech (Chennai) Ltd., the annual reports, memorandum of



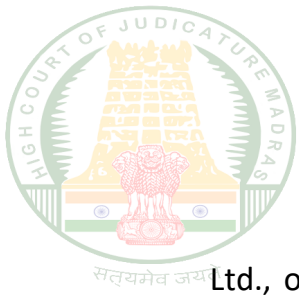
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Articles of Association with certificate of incorporation as well as all the forms filed with the Registrar of Companies for change of directors/shareholders.

13. It is further averred that inspite of the petitioner providing all the details sought for, the respondent issued communication dated 22.9.2011 informing non-compliance with the order of allotment and lease deed as the requisite procedure has not been followed and informed that failure to take remedial action including remittance of differential land cost within 90 days of the date of the said notice would result in cancellation of allotment and the respondent would proceed to resume the plot under the Tamil Nadu Public Premises (Eviction of Unauthorized) Occupants Act, 1975. The petitioner, after seeking for extension of time to file reply to the show cause notice, and further requested the respondent to condone the default and approve the change in name, directors and shareholding pattern of the company.

14. However, the respondent intimated that the management of the company had been changed without prior approval of the respondent and thus it required post-facto approval and agreed to examine the request for change of name from M/s.JBM Sungwoo Ltd., to M/s.Sungwoo Gestamp Hitech (Chennai)



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Ltd., on payment of a sum of Rs.355.68 Lakhs towards 50% of differential land cost along with processing fee of Rs.7500 within 90 days of receipt of the said letter. The petitioner, vide its letter dated 16.4.2012 sought the basis for calculation of the sum of Rs.355.68 lakhs towards the 50% differential cost.

15. However, curiously, in response to the petitioner's letter, reply was issued by the respondent dated 20.6.2012 informing inter alia that the plot cost had been revised @ Rs.80 Lakhs per acre and, hence, the differential land cost payable by the petitioner will be Rs.503.88 lakhs and not Rs.355.68 lakhs as communicated earlier, which differential cost, as per the said demand, was extremely arbitrary and unreasonable. Therefore, left with no alternative, efficacious and viable remedy, the present writ petition has been filed.

16. Learned counsel appearing for the petitioner submits that the impugned order levying differential land cost is not only vitiated, but clearly reveals total non-application of mind on the part of the respondent and, therefore, the impugned notices are untenable, arbitrary, illegal and liable to be struck down.



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17. It is the further submission of the learned counsel that neither the Order of Allotment nor the lease deed, which is relied on by the respondent to impose the differential land cost for effecting change in the name of the lessee or change in the shareholding pattern of the lessee provides for such levy of differential land cost. It is the further submission of the learned counsel that none of the correspondence between the petitioner and the respondent the respondent had informed about the consequence of payment of differential land cost upon change of name and shareholding pattern. Therefore, the demand made by the respondent is arbitrary, ex facie illegal and unjustified and the threat of cancellation of the allotment reveals the unjustified and arbitrary of the respondent. Though various conditions have been provided in the order of allotment of the land and the lease deed based on which allotment has been made, however, the terms and conditions laid down therein in the said lease deed and order of allotment does not provide for levy of such differential land cost.

18. It is the further submission of the learned counsel that clause 19 (a) of the order of allotment merely states that any change in the name of the allottee should have the approval of the respondent. Likewise, clause 35(b) of the lease



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deed, which is a deed subsequent to the order of allotment, merely provides that any change in the name of the allottee should be intimated to the respondent. In the wake of the above provisions, it is clear that the lease deed merely provides for intimation of the name change to the respondent and the order of allotment does not mandate prior approval of the respondent before name change is carried out. Therefore, the stand of the respondent that prior approval for name change has not been sought for, which forms the basis for the impugned levy of differential land cost is wholly inconceivable and erroneous. A harmonious reading of the lease deed and order of allotment would only lead to the irresistible conclusion that the change in name of the petitioner should be intimated to the respondent and as such there is no need to obtain prior approval of the same. Therefore, the petitioner, upon change of name has complied with the conditions laid out in the order of allotment and lease deed by intimating the respondent.

19. It is the further submission of the learned counsel that the demand for payment sought for by the respondent to condone the default in seeking approvals for change is a precondition to examine the petitioner's request for granting approval of the change of name from JBM Sungwoo Ltd to Sungwoo



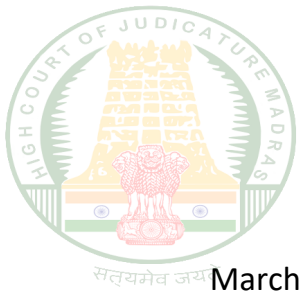
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Gestamp Hitech (Chennai) Ltd. This, according to the learned counsel, is against the agreement between the petitioner and the respondent to allotment of land since neither the order of allotment nor the lease deed provided for levy of differential cost as a precondition to change in name or management of the petitioner.

20. It is the further submission of the learned counsel that the impugned order and also the cancellation of the petitioner's lease would cause great prejudice to the interests of the petitioner as it would affect the employment which is provided to more than 2000 employees. The petitioner has complied with all the recitals in the lease deed and the activity of the petitioner has retained its original character inspite of subsequent share transfers since inception and the use of the property has been for the very same purpose, viz., towards manufacture of sheet metal components for automobiles and, therefore, without considering the above, passing the impugned order is grossly arbitrary and works great hardship to the petitioner.

21. It is the further submission of the learned counsel that more than 50% shareholding has not been changed pursuant to the following two events - (1) on



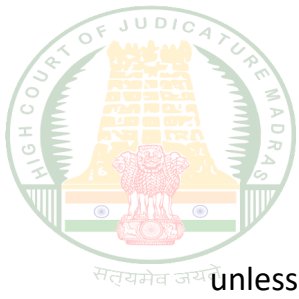
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March 26, 2003, 50% shares held by JBM in the petitioner was transferred to TATA, as more than 80% shares of JBM was held by TATA and its affiliates and transfer of shares resulted in the ultimate promoter of JBM, i.e., TATA, directly holding shares of the petitioner as against the earlier indirect shareholding; and (2) on February 4, 2009, 50% shares held by TATA in the petitioner was transferred to GESTAMP.

22. It is the further submission of the learned counsel that even otherwise, the respondent has imposed such differential land cost as on the current date and not on date of last transfer of shares and the said action of the respondent to unilaterally fix a date is arbitrary, wholly unjustified and without any basis.

23. It is the further submission of the learned counsel that a company has its independent legal existence and unless there is an attempt by the company or its officers to circumvent legal process or to evade payments to the State, the corporate veil ought not be pierced. However, in the present case, in the normal course of business the shareholding of the petitioner has undergone a change and by piercing the corporate veil, the respondent is attempting to impose a penalty, piercing of corporate veil and imposing penalty is not permissible in law



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unless the respondent establishes the fact that the change in shareholding was for the purpose of circumventing or for evasion. Further, the charging of a penalty is also not permissible.

24. It is further submitted that the petitioner was intimating the respondent from time to time about the change in name and change of shareholding right from December 2005. However, after a lapse of approximately six years, the respondent has chosen to raise an illegal, unjust and arbitrary demand. Further, it is submitted that the respondent permits subletting of properties by original allottees, however, it is curious to impose penalty when change is made in the shareholding of the allottee and such act on the part of the respondent exposes the arbitrariness in the action of the respondent. Therefore, it is prayed that the act being high-handed, not within the provisions of the original allotment order and lease deed and arbitrary and unjustified, the same deserves to be interfered with.

25. In support of the aforesaid submission, learned counsel for the petitioner placed reliance on the decision of this Court in ***SIPCOT – Vs – PHA India (P) Ltd. (2024 SCC OnLine Mad 537)***.



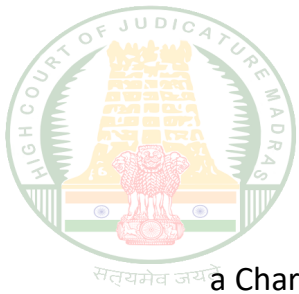
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26. Per contra, it is the submission of the learned Addl. Advocate General that the writ petition itself is not maintainable as the transaction between the petitioner and the respondent is contractual in nature and the parties are subjected to the terms and conditions of the lease deed of which there is no statutory violation and, therefore, the petitioner cannot maintain the writ petition.

27. It is the further submission of the learned Addl. Advocate General that plots to the extent of 9.88 acres in G-17 and G-18 was allotted on 25.7.1997 and a further extent of 4.94 acres was allotted on 6.6.2003 @ Rs.12 Lakhs per acre and the entire plot cost was paid by the company and lease deed was executed on 30.7.1998 and 26.6.2003 and registered on 30.7.1998 and 11.8.2003.

28. It is the further submission of the learned Addl. Advocate General that the company informed vide their letter dated 13.12.2005 that they have changed the name of the company from JBM Sungwoo Ltd. To TSAL w.e.f. 29.11.2005 to which the respondent called upon the company to furnish the details of the present Board of Directors, shareholding pattern of the company duly certified by



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a Chartered Accountant, reason for name change and Form-2 filled with Registrar of Companies on 22.12.2005, 15.2.2006, 29.3.2006 and 2.8.2006 to which the company furnished the details on 4.8.2006 which revealed that the shareholding pattern of JBM Sungwoo Ltd. Was changed twice during the year 2003 and 2006.

29. Referring to the counter, learned Addl. Advocate General further submitted that the respondent, in its letter dated 10.11.2006 pointed out that the shareholding pattern of the company had been changed twice during 2003 and 2006 without obtaining our approval, which is in violation of the condition No.18 and 35 (a) of the allotment order and Lease Deeds respectively. It was further pointed out that a perusal of the shareholding pattern revealed that at the time of allotment M/s. JBM Tools Ltd was holding 50% of shares and Sungwoo Metal Co. Ltd., Mitsubhishi Corpn. and M/s. Five Star Corporation were holding the balance 50%. It was further pointed out that during the year 2006, the entire shares of JBM Tools Ltd., have been transferred to TASL and Sungwoo Hitech Company Ltd., was holding 45% shares, which clearly established/revealed that there was a total change in the management.



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30. It is further submitted that it was pointed out to the company that again in the year 2009 change in management was carried out by transferring 50% shares to Gestamp Toledo SI Camino De Los Pontones, which evidences change of controlling interest. It was therefore highlighted by the respondent that whenever there is change in management differential land cost has to be paid as transfer fee. It is the further submission of the learned Addl. Advocate General that the petitioner claim that they have informed that the shareholders have changed vide their letter dated 29.12.2006, however, the shareholding pattern has not undergone any change with the original promoters of the project, viz., TASL and M/s. Sungwoo Hi-tech.

31. It is the further submission of the learned Addl. Advocate General that the petitioner had submitted that they have inadvertently omitted to inform the respondent about the change in the shareholders and requested to condone and accord approval for change in the name of the company from JBM Sungwoo Ltd., to M/s. TSAL.

32. Only in the backdrop of the petitioner failing to get prior approval for change in name of the company and alteration of the shareholding pattern as



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also the shareholders, the respondent issued show cause notice on 12.8.2011 for violation of Clause 18 of the allotment order and condition 35 (a) of the lease deed. It is the further submission of the learned Addl. Advocate General that the show cause notice was necessitated for violation of the terms and conditions of the allotment order and lease deed as no prior approval from the respondent was obtained before revising the shareholding pattern twice and also change in name of the company and the petitioner has not furnished the details of the shareholding pattern inspite of the repeated demands made by the respondent.

33. It is further submission of the learned Addl. Advocate General that in response to the show cause notice, the company has furnished the revised shareholding pattern on 2.9.2011 duly certified by a Chartered Accountant. On perusal of the shareholding pattern furnished by the company, it revealed that there is change in management as compared to the 2nd allotment order dated 6.6.2003, which prompted the issuance of the communication dated 22.9.2011 intimating breach of clause Nos.18 and 19 of the conditions of allotment order and clause no.35 (a) of the lease deed. Therefore, the company was intimated to take remedial action for payment of remedial cost, quantified by the respondent within 90 days from the date of notice, failing which, it was informed that the



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respondent would be constrained to cancel the allotment and proceed to resume the plot under the TNPP(E) Act.

34. It is the further submission of the learned Addl. Advocate General that the respondent issued demand letter to the company on 14.2.2012 to pay a sum of Rs.355.68 Lakhs due to the change in management at the rate of Rs.60 Lakhs per acre towards 50% differential land cost along with the processing fee of Rs.7,500/- for which the petitioner company vide its letter dated 16.4.2012 sought for certain clarifications, which was furnished on 20.6.2012 and as the land value had escalated since the earlier fixation, the demand was revised to a sum of Rs.503.88 lakhs, at the rate of Rs.80.00 lakhs/acre towards 50% differential land cost along with the processing fee of Rs.7,500/- for the change in management. Therefore, it is the submission of the learned Addl. Advocate General the entire computation and levy is based on the conditions in the allotment order and lease deed and the change of management and shareholding pattern and shareholders has necessitated the levy, which is on the basis of the contractual obligations and, therefore, the impugned order does not suffer the vice of any illegality, arbitrariness or irregularity and the same does not require any interference.



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35. Rejoinder has been filed on behalf of the petitioner, which, in sum and substance, carries the very same averments, as has been placed in the affidavit filed in support of the writ petition with additions denying the contentions raised on behalf of the respondent and, therefore, it is not necessary for this Court to deal with it in extenso. Suffice to take note of the said averments given in the rejoinder for the purpose of deciding the case.

36. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

37. Though the issue of maintainability of the writ petition is canvassed, however, this Court is not inclined to venture into the same for the reason that interpretation of the clauses in the allotment order and lease deed are put in issue and, therefore, this Court would proceed to find out whether the impugned order, which is alleged to be on the basis of the clauses in the allotment order and lease deed.



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38. The main grounds on which the petitioner has been visited with the impugned order is based on Clauses 18 and 19 of the order of allotment and Clause 35 (a) of the Lease Deed, which, according to the respondent mandates prior approval to be obtained for the purpose of name change and shareholding and for better appreciation, the same is quoted hereunder :-

"Clauses 18 & 19 of Allotment Order :

18. The constitution of the Board of Directors of the company shall not be changed without the prior approval of SIPCOT."

19 (a). Any change in the name of the allottee shall have the approval of SIPCOT.

Clause 35 of Lease Deed :

35 a. Any change in the constitution of the party of the second part shall have prior approval of the party of the first part."

39. A perusal of the aforesaid clause 18 of the allotment order clearly reveal that prior approval of the respondent is necessary if the Board of Directors of the company is changed and further clause 19 (a) uses the terminology "*shall*", which makes it markedly clear that it is a mandate and further it would also be worthwhile to point out that the company cannot change its name and seek for approval as such a scenario would make the approval a paper approval; rather



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what is provided for in the said clause is a mandate, which requires the approval to be granted by the respondent before the process for name change and actual name change can be proceeded with. Similarly, Clause 35 (a) of the lease deed is a mandate, which clearly show that prior approval by the lessee is required from the lessor. Without the approval, any change made by the lessee would be a clear infraction of clauses 18 and 19 of the allotment order and clause 35 (a) of the lease deed.

40. Further, clause 9 of the order of allotment order makes it clear that the approval to be granted by the respondent would be on the basis of the agreement of the lessee to pay the cost determined by the respondent, which shall be final and binding and which clause reads as under :-

"The plot is allotted on the specific condition that the allottee shall not assign, sub-let, transfer or part with his interest in the allotted plot either in whole or in part except with the prior written consent of SIPCOT. In the event of the allottee seeking approval for change in constitution, or change in the management or control or amalgamation, with any other company or transfer of interest to any third party either in whole or in part, SIPCOT shall grant approval provided, the allottee or any person claiming under him agrees to pay the cost determined by SIPCOT and the cost determined by SIPCOT



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shall be final and binding on the allottee or any person claiming under him, and cannot be questioned in any Court of Law".

41. From the aforesaid clauses in the allotment order and lease deed, it is very clear that in categorical and unambiguous term, it has been stated that not only prior approval for name change and constitution of the Board and shareholding pattern requires the prior approval of the respondent, but the cost that is to be payable on such transfer or parting with interest is to be determined by the respondent, which the lessee would be bound to pay.

42. Learned counsel for the petitioner has placed reliance on the decision in *PHA India case (supra)*, in support of the change in name, wherein the Division Bench has held as under :-

"8. On a perusal of the order dated 24.8.2011, which is impugned in the writ petition, demanding differential land costs, it is manifest that the approval was accorded for change in the name of the company from M/s. PHC Manufacturing Private Limited to M/s. PHA India Private Limited and while granting the said approval, the differential land cost was directed to be paid. It was also noted by SIPCOT that M/s. Pyeong Hwa Automotive Co. Limited, Korea, held 99.98% shares, whereas Mr. Sung Ho Park held 0.02% shares.



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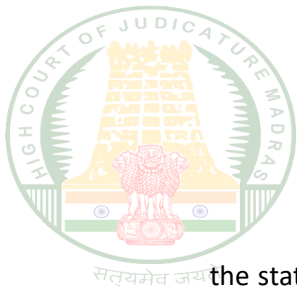
9. The appellant would be entitled to direct payment of differential costs only if the parties seek approval for change in the constitution or management or control or amalgamation with any other company or on transfer of interest to any third party, either in whole or in part.

10. The relevant aspect to be considered is whether there would be a change in the constitution, or management, or control or amalgamation with any other company or transfer of interest to any third party. The same is with a purpose that the parties may not transfer the interest in the land allotted by change in the management of the company and/or the control of the company."

43. The Division Bench, in the aforesaid case, on facts had held that in the said case, the controlling shares were held by the respondent therein, irrespective of the change in name of the company and, therefore, differential cost cannot be charged as the control of the company remained the same even after change in name.

44. In the aforesaid backdrop, the constitution of the Board and the shareholding pattern in the present case has to be looked into. A counter has been filed by the respondent in which the shareholders and Directors of the company are shown at the time of allotment on 25.7.1997, at the time of second allotment on 6.6.2003, which is in respect of Plot No.G-16, after change on 29.11.2005 and, thereafter on 30.11.2010. Curiously, it is to be noted that in

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the statement, the company is shown as the shareholder, which holds the share a comparative statement of the four dates, which are noted above is captured hereunder :-

S. No.	Name of the Company	25.07.1997	06.06.2003	29.11.2005	30.11.2010
1	M/s.JBM Tools Ltd. (Indian Promoter)	50 %			
2	M/s.Sungwoo Metal Company Ltd.	26%			
3	Ms. Mitsubhishi Corporation	19%	19%		
4	M/s.Five Star Corporation	5%		5%	
5	M/s.Tata Autocomp Systems Ltd.		50%	50%	
6	M/s.Sungwoo Hi-Tech Co. Ltd.		31%	45%	45%
7	M/s.Sungwoo Mold Co. Ltd.				5%
8	M/s.Gestamp Toledo Sl Camino De Los Pontones				50%

45. From the above statement, it could be ascertained clearly that Initially on 25.07.1997, M/s.JBM Tools Ltd., was holding 50% of the shares when allotment of G-17 and G-18 plots were made and three other companies, viz., M/s.Sungwoo Metal Co. Ltd., M/s.Mitsubhishi Corporation and M/s.Five Star Corporation were holding 26%, 19% and 5% respectively. Thereafter, for the purpose of expansion, additional land was sought for and, therefore, Plot No.G-16 was allotted on 06.06.2003 and at that time, 50% of the shareholding was with TASL and 31% was with one M/s.Sungwoo Hitech and 19% was with M/s.Mitsubhishi Corporation.



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46. From the above itself it is clear that between the 1st and the 2nd allotment, there is a marked difference in the shareholding, as in the 1st allotment, the larger chunk of shares was held by M/s.JBM Tools Ltd., while in the 2nd allotment, the higher shareholding was with TASL. Further, it is even the averment of the petitioner that M/s.JBM Tools Ltd. had sold its shareholding to TASL, which would be evident from their letter dated 03.07.2006. Therefore, there is definitely a change of guard in the management of the company even during July, 2006.

47. Further, it is to be pointed out that except for M/s.Mitsubhishi Corporation, who held 19% shares in the first allotment on 25.7.1997 and 6.6.2003, M/s.Sungwoo Metal Company was holding 26% shares and Five Star Corporation was holding 5 % shares during the first allotment, but at the time of the 2nd allotment of Plot No.G-16, the 31% was held by M/s.Sungwoo Hi-Tech Company Ltd. Though it is claimed that Sungwoo Hitech is an affiliate of M/s.Sungwoo Metal, there is marked changes in the directorship.



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48. Once again name change was effected on 29.11.2005 in respect of all the plots, viz., G-16, G-17 and G-18 in which TASL held 50%, M/s.Sungwoo Hi-Tech Co. Ltd. Held 45% and M/s.Five Star Corporation held 5%, however, there is a marked absence of M/s.Mitsubhishi Corporation, which held 19% shares and there is no clarity as to how the said shareholding was transferred and how M/s.Five Star Corporation came to hold 5% shares. Further, the Directors of the said companies are wholly different, except for a few exceptions.

49. Once again, name change was done which information was communicated to the respondent on 30.11.2010 which reveals M/s.Sungwoo Hi-tech Co. Ltd. Held 45%, M/s.Sungwoo Mold Co. Ltd. Held 5% and M/s.Gestamp Toledo held 50%. The Directors of the said company are also different. It is further to be pointed out that while the shareholding pattern of each company during all the phases are provided, the shareholders of the company, except for the names of the companies have not been provided as called for by the respondent. Further, during the name change, which was communicated on 30.11.2010 and during which time, shareholding pattern stood changed, one M/s.Gestamp Toledo was holding 50% share. Between 29.11.2005 and 30.11.2010, the major holding of 50% shares held by TASL had moved to the



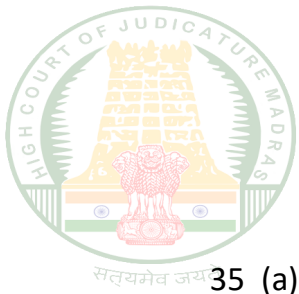
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hands of M/s.Gestamp Toledo, which clearly shows that there was a change in management.

50. One other aspect which requires to be pointed out here is the fact that though the petitioner claims that the companies to which the shares have been transferred during the name change process are the promoters of the company which entered into the lease deed with the respondent, it is to be pointed out that the shareholding pattern has not been provided. The details of the shareholders holding the percentage of shares in the company would be the determining factor in assessing whether the control of the company has changed hands or not. However, at the risk of repetition it is to be pointed out that the shareholding pattern showing the individuals, who hold the respective percentage of shares have not been specifically spelt out in any of the letters though the shareholding pattern of the company has changed, as pointed out in the counter by the respondent.

51. When there is change in management even between 1997 and 2005 from JBM Tools to TASL and, thereafter from TASL to Gestamp Toledo, the said change would attract clauses 18 and 19 of the order of allotment as also Clause



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35 (a) of the lease deed and, therefore, it is incumbent on the part of the petitioner to have obtained prior approval, moreso, it is not only name change, but is also a change of management. The decision in *PHA India case (supra)* relied on by the petitioner leans more in favour of the respondent than the petitioner, as the constitution/management and control of the company has changed hands from one entity to another entity, with differing shareholding pattern, which is the determinable for imposing differential cost.

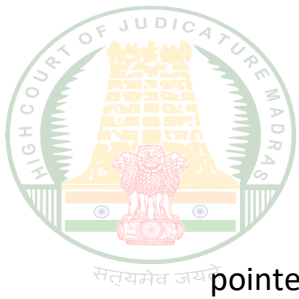
52. Though it is claimed by the petitioner that the clauses in the allotment order in respect Plot No.G-17 and G-18 and the allotment order in respect of Plot No.G-16 are different and even if the respondent wants to impose differential cost, it cannot be imposed in respect of plot No.G-16, however, a careful perusal of the clauses, which are extracted in the typed set of documents reveal that there is no material change in the clauses, though it is differently couched and that both the allotment orders clearly lay down that prior approval of the respondent is required for the purpose of name change and change in shareholding pattern and that differential cost is payable upon such change in ownership of the company. Therefore, the said contention of the petitioner also cannot be sustained.



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53. Though it is the stand of the petitioner that the claim of the respondent to seek for details about the constitution of the company so as to levy differential costs would be nothing but an act of lifting the corporate veil, which is impermissible, however, it is to be pointed out that as per the mutually agreed contract entered into between the parties, the petitioner had accepted to seek for prior approval for change in name and shareholding pattern. Such being the case, after accepting to the terms of the contract, the petitioner cannot come before the court and claim that it is not open to the respondent to seek for details by lifting the corporate veil and directing the company to provide all the details, including the shareholding pattern.

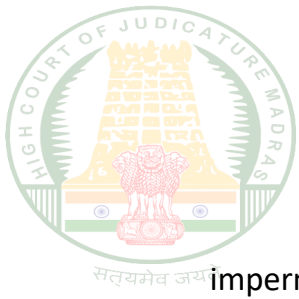
54. There could be no quarrel with the fact that each company has its independent legal existence and so long as there is no evasion of payments that are due to the State, the corporate veil cannot be pierced. However, it is to be pointed out that a contract has been entered into between the petitioner and the respondent in which the petitioner has agreed that if the constitution/management changes hands and the shareholding pattern is altered, then it would get the prior approval of the respondent. Further, it is to be



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pointed out that the said clause is provided in the contract so that the respondent does not lose when the lands changes hands from one company to another. The petitioner having accepted the terms of the contract, cannot now claim that there being no evasion of any statutory payments, the clause in the contract which safeguards the interests of the respondent in case of the company changing of hands cannot be enforced, as the said condition is included in the contract only to protect the interests of the respondent. On the change in ownership of the company by changing the shareholding pattern, the respondent would be entitled to enforce the clauses in the allotment order for imposing differential costs towards the cost of the lands, which alone would protect its interests. In such a backdrop, it would not be permissible for the petitioner to plead that the respondent cannot pierce the corporate veil cannot be accepted, as the respondent being the promoter is entitled to know the entity, who would be the other party to the contract, on the company changing hands. Further, to weed out a company acting as an agent or puppet of a parent company, it becomes necessary to pierce the corporate veil and look behind to determine that the respondent is not defrauded against the terms of the contract. Therefore, the act of the respondent in seeking the details of the change in the shareholding pattern and all other related details cannot be said to be

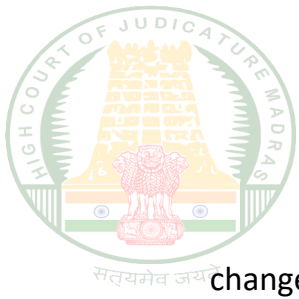


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impermissible or unsustainable. Therefore, the said contention deserves rejection.

55. Though it is the averment of the petitioner that it has provided the shareholding pattern as sought for by the respondent, however, the communication addressed by the respondent dated 24.04.2007 in which the letter of the petitioner is referenced dated 28.02.2007 reveals that the shareholding pattern along with the details of shareholders and the percentage of shareholding has not been provided. Though it is the stand of the petitioner that the details of the shareholders and shareholding pattern has been provided even in its earlier communications, however, no material whatsoever evidencing the providing of the necessary details as sought for by the respondent. Further, even the other communications of the petitioner thereafter and also the earlier communications informing the change of name do not disclose the details of the shareholders and the shareholding pattern, which are essential ingredients for the respondent to find out whether there is change in the ownership of the company which will trigger the invocation of clauses 9, 18 and 19 of the allotment order and clause 35 (a) of the lease deed. In the absence of not providing the requisite details inspite of it being called for regularly and the



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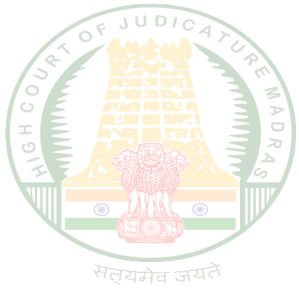
change in ownership as revealed through the shareholding pattern of the company over the times, it has changed name and change in the shareholding pattern takes this court to the irrevocable conclusion that the order passed by the respondent determining the differential cost for the lands payable by the petitioner cannot be said to be erroneous or arbitrary and it is in line with the clauses in the order of allotment and lease deed and the same does not warrant any interference.

56. For all the reasons aforesaid, this Court does not find any merit in the writ petition and finds no reason to interfere with the order impugned herein and, accordingly, this writ petition fails and the same is dismissed. There shall be no order as to costs.

25.06.2026

Index : Yes / No

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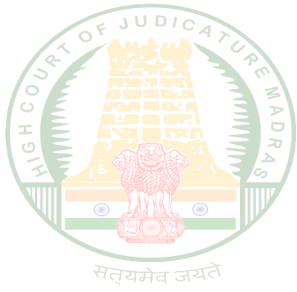


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To

Chairman & Managing Director
State Industries Promotion Corporation of
Tamil Nadu Ltd.
No.19-A, Rukmini Lakshmipathi Road
Egmore, Chennai 600 008.



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M.DHANDAPANI, J.

GLN

**PRE-DELIVERY ORDER IN
W.P. NO.25192 OF 2012**

**Pronounced on
25.06.2026**