

**BEFORE THE COMPANY LAW BOARD**  
**PRINCIPAL BENCH,**  
**NEW DELHI**

(Dated: 12<sup>th</sup> March, 2009)

**CP NO. 60 OF 2007**

Present: Shri S. Balasubramanian, Chairman

IN THE MATTER OF:

ANAND PERSHAD JAISWAL & OTHERS

...PETITIONERS

VERSUS

JAGATJIT INDUSTRIES LIMITED & OTHERS

...RESPONDENTS

**PETITIONERS:**

1. Anand Pershad Jaiswal
2. Blossom Investments Pvt. Ltd.
3. Talkatora Investment and Trading Company Pvt. Ltd.
4. Aarzoo Investments & Trading Pvt. Ltd.
5. Ruheen Holdings Pvt. Ltd.

**RESPONDENTS:**

1. Jagatjit Industries Ltd.
2. Shri Karamjit Singh Jaiswal
3. Shri Shakun Jaiswal
4. Ms. Gita Bawa
5. Shri Surjit Singh Bawa
6. Shri Arvind Behl
7. L.P. Jaiswal & Sons Pvt. Ltd.

**Present on behalf of parties:**

- |                                      |                        |
|--------------------------------------|------------------------|
| 1. Ms. Ritu Bhalla, Advocate         | .. for petitioners 1-3 |
| 2. Shri J.K. Oberoi, Advocate        | .. for petitioners 1-3 |
| 3. Shri Anuj Berry, Advocate         | .. for petitioners 1-3 |
| 4. Shri Jatin, Advocate              | .. for petitioners     |
| 5. Ms. Luxmi, Advocate               | .. for petitioners     |
| 6. Shri Sudipto Sarkar, Sr. Advocate | .. for resp. 1 & 2     |
| 7. Ms. Malini Sud, Advocate          | .. for resp. 1 & 2     |
| 8. Shri Deepak Khurana, Advocate     | .. for resp. 1 & 2     |
| 9. Shri Rohan Dheman, Advocate       | .. for resp. 1 & 2     |

ORDER  
(Date of hearing:4.3.2009)

1. The Petitioners representing 11.5% of the Issued Share Capital of the Company filed a Petition under Section 397 and 398 of the Companies Act, 1956, aggrieved on account of certain alleged acts of oppression and mismanagement in the affairs of the Company (Jagatjit Industries Limited (JIL), wherein they, inter alia, sought the following reliefs :-

- a). That the Hon'ble Company Law Board be pleased to order that the present Board of Respondent No. 1 stands superseded and appoint an Administrator to take charge of the management and affair of the Company and its books, papers, records and documents. Further, being incharge of the management of the Respondent No. 1 company for ensuring smooth and proper functioning of the Company.
- b). Remove and issue a permanent injunction restraining Respondent No. 2 from acting as, representing himself or holding himself out to be the Managing Director or a Director of the Company in any manner whatsoever;
- c). Frame a scheme for management, administration and control of the affairs of the Company on such terms and conditions as this Hon'ble Board may deem fit;
- d). Declare that the allotment of 25,00,000 Equity Shares of the Respondent No. 1 to the Respondent No. 7 Company, by the Board Resolution dated 30.4.2004 read with the resolution dated 16.6.2004 passed at the EGM of the Respondent No. 1 company is null and void and cancel the same;
- e). Order that Respondent nos. 2-6 recompense and pay to the Company jointly and severally damages suffered on account of but not limited to the amounts lost as a result of financial mismanagement of the Respondent No. 1 company including wrongful and fraudulent divestment of holding of Respondent No. 1 in L.P. Investments as quantified post a thorough investigation into the

affairs of Respondent No. 1 under the Management of Respondent No. 2 to Respondent No. 6;

f). Declare that the transfer of shares held by Respondent No. 1 in L.P. Investment to group companies of Respondent No. 2 to be null and void and restitute the same investments in the hands of Respondent No. 1;

g). Direct that the affairs of the Company as well as those of any other body corporate as defined under Section 239 of the Companies Act be investigated;

h). That the Hon'ble Company Law Board be pleased to order costs of this petition.

2.. The Company and the Respondent No. 2 filed a Counter Affidavit in reply to the Petition, inter alia, denying the allegations made in the Petition. Rejoinder to the Counter Affidavit was filed by the Petitioners and in response thereto Sur Rejoinder was filed by the Respondent Nos. 1 & 2.

At the time of admission of the petition on 22.5.2007 the following interim order was passed :-

“Petition mentioned and interim reliefs sought. The counsel for the Respondent submits that no capital assets of Respondent No. 1 shall be dealt with any manner except in the normal course of business. Likewise he also submits that Respondent No. 7 shall not dispose of or create any third party rights in respect of the preferential allotment made to him. Respondents to file their replies by 15.7.2007 and rejoinder to be filed by 10.8.2007. The petition will be heard on 12<sup>th</sup> to 14<sup>th</sup> September, 2007 at 2.30 p.m.”

3. The matter was heard on merits. During the course of hearing at my suggestion the parties explored the possibility of settlement as it was essentially a family dispute. After hearing the arguments advanced by both the parties, I formed the view that there was no merit in the challenge to the allotment of shares with differential voting rights on the facts as also legally and the preferential allotment of the shares made by the Company on 16.5.2004 was legally permissible in view of the provisions of Section 86 of the Companies Act, 1956 as amended by the Companies Amendment Act, 2000, read with

the Companies (Issue of Share Capital with Differential Voting Rights) Rules, 2001. After the amendment to the Companies Act by the Amendment Act of 2000 the issue of shares with DVR is permissible under the provisions of the Companies Act, 1956. With regard to the Articles of Association of the Company I am of the view that in view of the provisions of the "Capital" clause in the Memorandum read along with the Articles of Association of the Company the Respondent No. 1 was authorized to issue shares with DVRs.

At the close of the hearing I again suggested to the parties to consider settlement and after consulting the Counsels the parties have approached me with the final terms of settlement which is enclosed as Annexure A to this order and which forms part of this order.

4. In terms of the settlement, the Petition is dismissed with the directions that

- 1.. The Respondents will buy the entire shareholding of the Petitioners in JIL and L.P. Jaiswal & Sons Pvt. Ltd., which as per the company's record is as follows :

**Jagatjit Industries Limited**

- |      |                                                          |                  |
|------|----------------------------------------------------------|------------------|
| i).  | Petitioner Nos. 1-3                                      | 28,95,524 shares |
| ii). | Petitioner Nos. 4 – 5<br>(and other members of JJ Group) | 28,98,588 shares |

**L.P. Jaiswal & Sons Pvt. Ltd.,**

- |       |                                                        |            |
|-------|--------------------------------------------------------|------------|
| i).   | Petitioner No. 1                                       | 300 shares |
| ii).  | Petitioner Nos. 2 & 3                                  | NIL        |
| iii). | Petitioner Nos. 4-5                                    | NIL        |
| iv).  | JJ and other members of JJ Group<br>(Jagatjit Jaiswal) | 300 shares |

The above shares will be purchased on the following mutually agreed terms and conditions :

- 2.. The above shares of APJ Group and JJ Group will be purchased at a value of Rs.36,50,00,000/- (Rupees thirty six crores fifty lacs) each.
3. The Respondent No. 1 Company will pay for shares of Petitioners only by buyback of shares in cash and consequently the equity share capital of the

Company will stand reduced to that extent. Payment will be made within 3 months from the date of the order of CLB.

4. All allegations of oppression and mismanagement and challenges to the preferential allotment both before this Hon`ble Board and before SEBI are withdrawn unconditionally by the Petitioners and JJ and the issue of shares with DVR are upheld as valid by the Company Law Board as being in accordance with the Articles of Association of the Company and provisions of the Companies Act. This direction and consent will take effect on the date of payment by the Respondent to the Petitioners in terms hereof.
- 5.. All interim orders passed are vacated, and the Respondent will be entitled to sell/transfer/mortgage any immovable assets as it deems fit from the list annexed hereto as Annexure A. The proceeds thus realized will be deposited in a separate account and utilized for any other purpose only after the above payments are first made to the Petitioners. Also annexed hereto as Annexure B is a list of the properties which the Company does not propose to sell presently.
- 6.. All parties will file an Affidavit of compliance of this order within 10 days.)
- 7.. It is agreed that this order will not affect any other pending proceedings between the parties except that the allegations of oppression and mismanagement and challenges to the preferential allotment will not be raised by the Petitioners and JJ before any other Court/Forum.
- 5.. Accordingly the parties will file affidavit of compliance as required by the Consent Terms within ten days from the date of this order. The Respondent No.1 Company is directed to buyback the entire shareholding of the two Petitioner Groups as appearing in the records of Respondent Nos. 1 & 7 for a total consideration of Rs.36,50,00,000/- (Rupees thirty six crores fifty lacs only) to be paid to each Group. The said shares will be converted into physical form and tendered to the Company for buy back. I also direct that as a consequence thereof the share capital of the company will

stand reduced and the Company is exempted from compliance under Section 100 of the Companies Act, 1956. Since the shares are being bought back by the Company from the existing promoters as part of a settlement between them, in the circumstances, the parties are exempted from complying with the provisions of Section 77A, the provisions of SEBI (Buyback of Securities) Regulations, 1988, SEBI (Substantial Acquisition of Shares & Takeovers) Regulations, 1997 and any other applicable Regulations and provisions of the Companies Act.

6.. As agreed to by the parties, however, the aforesaid findings, orders and directions as well as the withdrawal of all allegations and challenge on the ground of oppression and mismanagement as well as withdrawal of the challenge to the preferential allotment by the Petitioners will come into effect on the date when the payment is made by the Respondent No. 1 to the Petitioners in terms of this order.

7.. In the meanwhile, the interim orders passed by this Board on 22.5.2007, 7.9.2007, 29.10.2007, 10.3.2008 and 25.9.2008 stand vacated and the Respondent No.1 is entitled to sell, transfer, mortgage or deal with any immovable assets forming Annexure A to the Consent Terms. The proceeds realized against the aforesaid immovable assets will be deposited in a separate Bank account by the Respondent No. 1 Company and will utilize for any other purpose only after payment is first made to the Petitioners.

8.. This order will not affect any other pending proceedings between the parties except that the allegations of oppression and mismanagement and challenges to the preferential allotment will not be raised by the Petitioners and Jagatjit Jaiswal before any other Court/Forum.

9.. Liberty is given to the parties to approach the CLB for further directions in aid of the settlement.

The petition is accordingly disposed of in terms of the above directions and order.

*Sd/-*  
(S. Balasubramanian)

IN THE MATTER OF:

ANAND PERSHAD JAISWAL & OTHERS

...PETITIONERS

VERSUS

JAGATJIT INDUSTRIES LIMITED & OTHERS

...RESPONDENTS

**CONSENT TERMS**

- 1.. The Respondents will buy the entire shareholding of the Petitioners in JIL and L.P. Jaiswal & Sons Pvt. Ltd., which as per the company's record is as follows :

**Jagatjit Industries Limited**

- |      |                                                          |                  |
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**L.P. Jaiswal & Sons Pvt. Ltd.,**

- |       |                                                        |            |
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| i).   | Petitioner No. 1                                       | 300 shares |
| ii).  | Petitioner Nos. 2 & 3                                  | NIL        |
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The above shares will be purchased on the following mutually agreed terms and conditions :

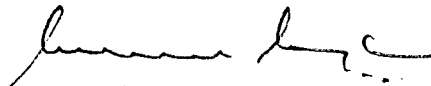
- 2.. The above shares of APJ Group and JJ Group will be purchased at a value of Rs.36,50,00,000/- (Rupees thirty six crores fifty lacs) each.
3. The Respondent No. 1 Company will pay for shares of Petitioners only by buyback of shares in cash and consequently the equity share capital of the Company will stand reduced to that extent. Payment will be made within 3 months from the date of the order of CLB.



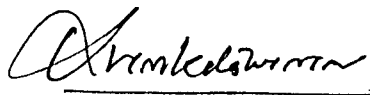


preferential allotment both before this Hon'ble Board and before SEBI are withdrawn unconditionally by the Petitioners and JJ and the issue of shares with DVR are upheld as valid by the Company Law Board as being in accordance with the Articles of Association of the Company and provisions of the Companies Act. This direction and consent will take effect on the date of payment by the Respondent to the Petitioners in terms hereof.

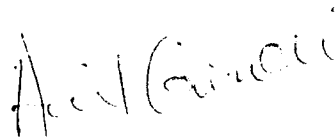
- 5.. All interim orders passed are vacated, and the Respondent will be entitled to sell/transfer/mortgage any immovable assets as it deems fit from the list annexed hereto as **Annexure A**. The proceeds thus realized will be deposited in a separate account and utilized for any other purpose only after the above payments are first made to the Petitioners. Also annexed hereto as **Annexure B** is a list of the properties which the Company does not propose to sell presently.
- 6.. All parties will file an Affidavit of compliance of this order within 10 days.
- 7.. It is agreed that this order will not affect any other pending proceedings between the parties except that the allegations of oppression and mismanagement and challenges to the preferential allotment will not be raised by the Petitioners and JJ before any other Court/Forum.



For Petitioner Nos. 1, 2 & 3 (APJ Group)



For Petitioner Nos. 4, 5 & Jagatjit Jaiswal (JJ Group)



For Respondent No. 1 & 2 (KSJ Group)



**ANNEXURE A****LIST OF IMMOVABLE ASSETS NOT USED FOR MANUFACTURING  
OFFICE AND ANCILLARY PURPOSES**

- a). Residential house at Plot No. 12, Rajdoot Marg, Chanakya Puri, New Delhi.
- b). B-69, Greater Kailash-I, New Delhi
- c). Flat No. 5-C, Tata Apartments, 23 Prithviraj Road, New Delhi belonging to M/s Binnies Estates Ltd., a wholly owned subsidiary of JIL.
- d). 2 Floors of Ashoka Estate, Barakhamba Road, New Delhi
- e). Flat No. 501, Kenwood Cooperative Society, Bandra, Bombay



ANNEXURE B

**LIST OF IMMOVABLE ASSETS USED FOR MANUFACTURING AND  
ANCILLARY PURPOSES**

- 1.. Factory at Hamira, District Kapurthala, Punjab
- 2.. Factory at Sikandrabad, District Bulandshaher, U.P.
- 3.. Liquor Bottling Plant at Behror, District Alwar Rajsthan
- 4.. Glass container manufacturing plant at Sahibabad, District Ghaziabad
- 5.. Company's offices at Bhandari House, Nehru Place, New Delhi
- 6.. Flat No. 9, 9<sup>th</sup> Floor, Shantiniketan Building, Camac Street, Calcutta
- 7.. Flat No. 409, Embassy Centre, Nariman Point, Bombay
- 8.. Flat No. 101 & 102, (1<sup>st</sup> Floor) and Portion of 4<sup>th</sup> Floor, Pandey Bhawan, Lucknow
- 9.. Land & building at C-35, Sector 57, Noida Phase III
- 10.. Land & building at C-16, Sector 57, Noida Phase III
- 11.. Land & building at Plot No. 78, Sector 18, Industrial Area, Gurgaon.
- 12.. 4 Nos. of Residential Plots measuring 435 sq. mtrs. each at Palam Vihar, Gurgaon.

