

**NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, COURT – II  
CHENNAI**

**ATTENDANCE CUM ORDER SHEET OF THE HEARING OF NATIONAL  
COMPANY LAW TRIBUNAL, CHENNAI BENCH, HELD ON 15.12.2025 AT  
10.30 A.M. THROUGH VIDEO CONFERENCING:**

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**PRESENT: SHRI. JYOTI KUMAR TRIPATHI, HON'BLE MEMBER (JUDICIAL)  
SHRI. RAVICHANDRAN RAMASAMY, HON'BLE MEMBER (TECHNICAL)**  
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**APPLICATION NUMBER : --**

**PETITION NUMBER : CP(CA)/54(CHE)2023**

**NAME OF THE PETITIONER : Stalin Nova Gnanaraj**

**NAME OF THE RESPONDENT(S) : Shalom Garments Pvt Ltd & 4 Others**

**UNDER SECTION : Sec 58, 59, 241 & 242, 246 & 337-341 of CA,  
2013**

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**ORDER**

Vide separate order pronounced in open court, Application is Dismissed.

**Sd/-  
RAVICHANDRAN RAMASAMY  
Member (Technical)**

**Sd/-  
JYOTI KUMAR TRIPATHI  
Member (Judicial)**

**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
DIVISION BENCH – II, CHENNAI**

**CP (CA) 54/ (CHE)/ 2023**

*(Under Section 58, 59, 241 and 242 along with Section 246, 337-341 of the  
Companies Act, 2013)*

*In the matter of **Shalom Garments Private Limited***

**STALIN NOVA GNANARAJ,**  
14 A/6, Shalom Cottage, Shelton Avenue  
Vallioor, Tirunelveli, Tamil Nadu – 627 117

*... Petitioners*

**-vs-**

**1. SHALOM GARMENTS PRIVATE LIMITED,**  
14 I/6, Eruvadi Road,  
Vallioor, Tirunelveli, Tamil Nadu – 627 117

**2. P. GNANARAJ,**  
14 A/6, Shalom Cottage, Shelton Avenue  
Vallioor, Tirunelveli, Tamil Nadu – 627 117

**3. G. JAISON DANIEL,**  
14 A/6, Shalom Cottage, Annex Shelton Avenue  
Vallioor, Tirunelveli, Tamil Nadu – 627 117

**4. J MEHITA,**  
14 A/6, Shalom Cottage, Annex Shelton Avenue  
Vallioor, Tirunelveli, Tamil Nadu – 627 117

**5. MR. D. JOHN OHILVI,**  
Company Secretary of Respondent No.1,  
3/95A, East of Medical College, Ananthan Nagar,  
Asaripallam, Kanyakumari District, Nagercoil - 629 201,

*...Respondents*

*Order pronounced on 15.12.2025*

**CORAM**

**SHRI. JYOTI KUMAR TRIPATHI, MEMBER (JUDICIAL)**

**SHRI. RAVICHANDRAN RAMASAMY, MEMBER (TECHNICAL)**

*Present:*

*For Petitioners: Umayaparvathi N & Hema Srinivasan, Advocates*

*For Respondents: Roshan Atiq, Advocate*

## ORDER

*(Hearing through hybrid mode)*

The application has been filed under Section 58, 59, 241 and 242 along with Section 246, 337-341 of the Companies Act, 2013, by **STALIN NOVA GNANARAJ**, seeking reliefs against acts of oppression and mismanagement alleged to have been committed by **P. GNANARAJ, G. JAISON DANIEL** and **J MEHITA**, that is the Respondents No. 2, 3 and 4 respectively. The reliefs sought are as follows:

*“H. INTERIM RELIEFS SOUGHT FOR:*

*Pending final decision on the Petition, the Petitioner humbly prays that this Hon’ble Tribunal may be pleased to grant the following interim reliefs:-*

- i. Restrain the Respondents No.2 to 4 from acting as Director of Respondent No.1 Company, pending disposal of this Petition;*
- ii. An order appointing 2 independent directors to the Board of the Company, pending disposal of this Petition.*
- iii. An interim order restraining the Respondents from calling any board meetings or AGM or EGM of the Company for voting on issuance or allotment of further shares of the Company, without the prior approval of this Hon’ble Tribunal.*
- iv. An order directing the Respondents to produce the originals of all documents relating to the alleged resignation /removal of the Petitioner as a director, with a copy to the Petitioner.*
- v. An order directing the Respondents to produce all documents relating to the transfer of 5,000 shares from the Petitioner to the 2nd Respondent, with a copy to the Petitioner;*

*vi. An order directing the Respondents to produce all documents relating to the transfer of Mrs. Esther's 8,200 shares to the 2nd Respondent, allegedly on 10.08.2020, with a copy to the Petitioner.*

*vii. An order directing the Respondent No.2 to Respondent no. 4 to make available for inspection by the Petitioner or any of their authorised representatives all records, books of account and any or all corporate and other documents and filings made by Respondent No.1 Company and further permit the Petitioner to make copies thereof;*

*viii. To restrain the Respondents from withdrawing any funds from the 1st Respondent bank account except to meet regular business expenses including employee salaries;*

*ix. To Restrain the Respondents 2 and 4 to collect salaries or other remuneration or withdrawals from the Company during the pendency of the present Petition.*

*x. To appoint an independent and impartial auditor to conduct a forensic audit into the affairs of the Respondent No.1 to unearth the fraudulent transactions conducted by the 2nd to 4th Respondent in the Respondent No. 1 Company;*

*xi. Direct the Respondents to make available all documents, forms and records required by the forensic auditor, while permitting the Petitioner to make copies thereof.*

*xii. An order restraining the Respondent Nos.2 to 4 from taking any steps whatsoever, either directly or indirectly, towards alienating or transferring or dealing with the property (both immovable and movable) of the Respondent No.1 Company;*

*xiii. To restrain the 2nd and the 4th Respondent from diverting business to any other any third parties or other entities; and*

*xiv. Pass such further or other orders as deemed fit by this Hon'ble Tribunal especially in exercise of powers under Section 242 of the Companies Act, 2013 read with Section 59 of the Companies Act 2013.*

*I. FINAL RELIEFS SOUGHT FOR:*

*i. In view of the facts mentioned above, the Petitioner humbly prays that this Hon'ble Tribunal may be pleased to:*

*ii. Declare that the acts of the Respondents 2-4 amount to oppression and gross mismanagement of the 1<sup>st</sup> Respondent Company.*

*iii. Declare that the transfer of 5,000 shares of the Petitioner to the 2<sup>nd</sup> Respondent in 2011 is illegal, null and void.*

*iv. Direct the Respondents to rectify the register of members of the Company, to reflect the Petitioner's shareholding to show the 5,000 shares initially held;*

*v. Declare that the transfer of 8,200 shares of Ms. Esther to the 2<sup>nd</sup> Respondent allegedly on 10.08.2020 is illegal, null and void;*

*vi. Direct the Respondents to take steps including all corporate processes to transmit to the Petitioner 1,822 shares, being 2/9<sup>th</sup> of late Ms. Esther's 8,200 shares;*

*vii. Direct the Respondents to rectify the Company's register of members to show the Petitioner's shareholding increased by 1,822 shares;*

*vii. Declare that the Petitioner's removal as director on 02.11.2004 is illegal, null and void and consequently, reinstate him as director of the 1<sup>st</sup> Respondent Company.*

*viii. Direct the Respondents 2,3 and 4 to restore/refund the monies siphoned off from the Company, and personally make good the loss caused to the 1<sup>st</sup> Respondent company by their misconduct, in terms of section 246 read with sections 339 and 240 of the Act;*

*ix. Declare that the Respondents 2,3,4 are disqualified from continuing as directors of the 1<sup>st</sup> Respondent Company.*

*x. Such other reliefs as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case."*

## **2. SUBMISSIONS OF THE PETITIONERS**

2.1. The Applicant submits that he is one of the original subscribers and founding Directors of the 1st Respondent Company, holding 5,000 equity shares (19.41%) at incorporation. He states that the Company was incorporated as a closely held family company with himself, Respondent No.2 (his father) and his late mother, Mrs. G. Esther, as the initial Directors and shareholders.

2.2. It is submitted that he had, since inception, been actively involved in the operations of the Company, including marketing, product development, ERP implementation, export coordination, vendor management and branding, as evidenced by various emails and documents placed on record. He also states that he pledged his personal property in 2007 for securing bank facilities for the Company.

2.3. It is the contention of the Applicant that until the demise of his mother on 28.08.2020, he reposed complete faith in Respondent No.2 and, owing to the family run nature of the business, did not review the statutory filings or financial affairs of the Company. Following his mother's demise and an accident suffered by him in early 2021, he undertook a review of the Company's records and was shocked to

discover that his name had been removed from the Register of Members and that he was no longer reflected as a Director.

2.4. It is submitted that the Form-32 filed with the Registrar of Companies on 28.04.2005, falsely records that he resigned from directorship on 02.11.2004, whereas he was abroad (in Dubai) on that date on official Company work. He contends that no resignation was ever tendered, no notice for removal was issued, and the alleged resignation letter is fabricated. According to him, his illegal removal from the Board is in gross violation of the Companies Act, 1956.

2.5. It is further submitted that during the course of due diligence in 2021–2022, he discovered that his entire 5,000 shares had been illegally transferred to Respondent No.2 in FY 2011–2012 without his knowledge, consent or execution of any transfer deed, without receipt of any consideration, and without filing of PAS-3 or approval by any Board/ General Meeting. He alleges that his share certificates, entrusted in good faith to Respondent No.2, were misused to effect such fraudulent transfer.

2.6. It is also submitted that his late mother's 8,200 shares were also shown as transferred to Respondent No.2 on 10.08.2020, when both she and Respondent No.2 were critically ill due to COVID-19 and incapable

of executing any documents. He contends that such entries are fabricated to deprive him of his rightful 2/9th share in her estate. He submits that his mother died intestate, leaving behind the Applicant, Respondent No.2, Respondent No.3 and one daughter as legal heirs.

2.7. It is further submitted that in FY 2014–2015, the Company increased its subscribed capital from 25,700 to 30,000 shares, and 4,300 shares were allotted to Respondent No.3 without filing of PAS-3. This, according to him, was another step undertaken with the mala fide intention of altering the shareholding structure to his detriment.

2.8. It is submitted that the Respondents 2–4 have engaged in several acts of oppression and mismanagement including exclusion of the Applicant from management, fabrication of statutory records, diversion of funds to overseas entities namely Al Wahaj LLC and Al Arab Foodstuffs LLC, non-disclosure of related party transactions, violation of FEMA, wrongful availment of duty drawback, and allowing dues of Rs.2.37 crores from Al Wahaj to remain unrealised for several years.

2.9. It is also submitted that the Company's affairs have been conducted in a manner prejudicial and oppressive to him and detrimental to the Company, and that the Respondents have siphoned

funds, falsified statutory records, and acted in breach of their fiduciary duties. He relies upon the Search Report dated 06.07.2022 issued by a practicing Company Secretary, which, according to him, corroborates that statutory filings relating to transfer/ allotment of shares were not made and that the records suffer from several material discrepancies.

2.10. It is further submitted that despite repeated attempts to amicably resolve the matter, including issuance of legal notices dated 05.12.2021 and 26.04.2022, the Respondents have not rectified the illegal acts. Instead, Respondent No.2 has initiated false criminal proceedings against him as a counterblast.

2.11. It is finally submitted that rectification of the Register of Members by restoring his 5,000 shares, transmission of 2/9th of his late mother's shareholding, restoration of his directorship, declaration that all impugned share transfers are void, investigation into the affairs of the Company, and such further directions may be brought in to bring an end to the acts of oppression and mismanagement of the Respondents.

### **3. SUBMISSIONS OF THE RESPONDENT**

3.1. The Respondents, at the outset, deny all allegations of oppression and mismanagement as false, frivolous and concocted.

3.2. It is their primary contention that the Petitioner ceased to be a Director in November 2004 and voluntarily transferred all his 5,000 shares in the year 2010–11 in favour of the 2nd Respondent. Hence, the Petitioner is not a member of the 1st Respondent company and therefore lacks the statutory locus standi to invoke Sections 241 and 242 of the Companies Act, 2013.

3.3. It is submitted that the Petitioner resigned suo motu from directorship with effect from 02.11.2004, which is duly reflected in the statutory records. The allegation that the Petitioner learnt about his cessation only in 2021 is denied as false, irresponsible, and contrary to his own conduct since he admittedly never participated in any Board Meeting from 2004 onwards.

3.4. It is further submitted that the Petitioner, after resigning, consciously stepped away from the affairs of the Company and thereafter started and managed his own entities namely Eden Garments, Shalom Automobiles and S&S Fashions Pvt. Ltd., all of which eventually collapsed due to his mismanagement. It is thus contended that the Petitioner's attempt to re-enter the Company after more than a decade is only an afterthought motivated by financial gain.

3.5. It is submitted that with respect to the Petitioner's claim over the shares of Late Mrs. Esther, the Respondents submit that Late Mrs. Esther, during her lifetime, voluntarily transferred all her 8,200 shares in favour of the 2nd Respondent, which transfer was duly approved by the Board on 10.08.2020. Annexure A6 in the reply evidences that she was admitted to hospital only on 17.08.2020 and thus was capable of executing the transfer on 10.08.2020. Hence, the Petitioner's claim of entitlement to 2/9th share is false.

3.6. It is further submitted that the Petitioner has on several occasions taken contradictory stands, particularly regarding when he allegedly came to know about the share transfers. He has alternatively claimed to have discovered the facts through a lawyer friend (August 2021), through a Company Secretary's search report (July 2022), and through due diligence (December 2021). These contradictions, according to the Respondents, expose the falsity of the petition.

3.7. The Respondents deny the allegation that the Petitioner ever participated in the management of the Company between September and November 2020. They contend that no salary was ever paid to him and that the Petitioner had merely volunteered to assist after the demise of

Late Mrs. Esther. Instead, it is alleged that the Petitioner illegally took away company-owned cars, compelling the Respondents to lodge a police complaint, pursuant to which the vehicles were recovered.

3.8. The Respondents categorically deny any act of oppression or mismanagement. They emphasize that the Petitioner himself admits that from 1998 to 2020 he never scrutinised the financial statements, returns or affairs of the Company, which further establishes that he had completely exited the Company's management.

3.9. The Respondents submit that all share transfers referred to by the Petitioner, including the transfers involving the Hingorani family (2007-08), the Petitioner's own 5,000 shares (2010-11), and other shareholder transactions, were duly reflected in the statutory Annual Returns filed with the Registrar of Companies. These documents have been publicly available for over a decade, and the Petitioner's allegation of "discovery" in 2021 is termed unbelievable.

3.10. The Respondents deny the Petitioner's allegations of illegal instructions, fabricated documents, failure of Company Secretary/Auditor, and siphoning of funds. It is submitted that the Company has

been consistently profitable and recorded a turnover of Rs. 32.49 crores with a profit of Rs. 1.14 crores in FY 2021-22.

3.11. The Respondents strongly dispute the allegations regarding Al Wahaj Trading Est./ LLC. They clarify that the 3rd Respondent is only a 49% partner in Al Wahaj Trading LLC since 2015 and that all transactions with the said entity are legitimate, in the ordinary course of export business, and at an arm's length. No Company funds were diverted, nor were there any FEMA or customs violations. They further contend that the Petitioner, who was once employed in the said entity between 2004 and 2007, has illegally procured financial documents of that firm, and the Respondents reserve their right to initiate criminal action.

3.12. It is further submitted that the allegations relating to non-transparency in accounts, duty drawback violations, siphoning, hawala-like transactions and investment in foreign entities are baseless and unsupported by material. The Respondents reiterate that all financial statements have been prepared in compliance with law and fully disclosed.

3.13. The Respondents also reject the allegation that the appointment of the 4th Respondent as Director after the demise of Mrs. Esther was illegal.

3.14. It is submitted that such appointment was made in accordance with law and within the authority of the Board and shareholders, and that the Petitioner, not being a member, has no locus to question the same.

3.15. The Respondents submit that the Petitioner's legal notice and demand for restoration of his 5,000 shares demonstrate his ulterior motive as a person who continuously alleges that the Company is being mismanaged would not have sought reinstatement of shares if the allegations were true. The Respondents deny threatening the Petitioner.

#### **4. SUBMISSIONS OF THE APPLICANT IN REJOINDER**

4.1. The Applicant submits that he has perused the Counter filed by Respondents 1 to 4 and, at the outset, denies all averments contained therein except those specifically admitted.

4.2. It is submitted that the Counter is replete with false statements, bald denials and misleading assertions, made only to divert the attention of this Hon'ble Tribunal from the real issues.

4.3. The Applicant contends that the Respondents have failed to produce even a single document proving their central claims, namely:

- (i) the alleged transfer of the Applicant's 5,000 shares to the 2nd Respondent;

(ii) the alleged transfer of Late Mrs. Esther's shares to the 2nd Respondent on 10.08.2020, despite both individuals being seriously ill at the time; and

(iii) the alleged resignation letter of the Applicant as Director.

The absence of these primary documents, despite repeated assertions, itself demonstrates the falsity of the Respondents' narrative.

4.4. It is submitted that instead of addressing the detailed allegations of fraudulent share transfers, forgery of documents, manipulation of records and mismanagement, the Respondents have attempted to obfuscate material issues by dragging in irrelevant personal and family matters having no bearing on the present Company Petition.

4.5. It is further submitted that the allegations that the Petition is frivolous, vexatious or motivated are vehemently denied. On the contrary, the Respondents' refusal to address the specific acts of oppression and mismanagement, particularly the fraudulent transfers of the Applicant's shares and the mother's shares, only reinforces the correctness of the Applicant's case.

4.6. The Applicant denies the Respondent's allegation that he approached this Tribunal with unclean hands. It is submitted that all

material facts have been disclosed in the Petition, and the documents supporting his case including medical records of Late Mrs. Esther and the Applicant, e-mails showing efforts at mediation, and communications requesting rectification of shareholding have been placed on record.

4.7. The Applicant reiterates that the claim of having resigned as Director in 2004 is wholly fabricated, particularly when no resignation letter has been produced. It is submitted that the Respondents have suppressed Form-32 related documents, misrepresented dates, and manipulated filings with the ROC to create a false chain of events.

4.8. It is further submitted that the Respondent's claim that the Applicant voluntarily transferred his 5,000 shares is demonstrably false, as no share transfer form, board resolution, or consideration proof has been produced. The alleged transfer of his mother's shares on 10.08.2020, when she was hospitalized for COVID and in critical condition also stands disproven by the medical documents filed with the rejoinder.

4.9. It is submitted that the Respondents have failed to address serious allegations regarding fraudulent filings, concealment of shareholding patterns, siphoning of company funds, diversion of revenue, hawala

transactions, FEMA violations, and misuse of corporate resources, all of which have been detailed in the main Petition. Instead, they rely only on bare denials without any supporting evidence.

4.10. The Applicant also points out that the Respondent's pleadings are inherently contradictory. In several places they claim the Applicant had no role in the Company, but elsewhere they assert that he was assisting the 2nd Respondent; similarly, they allege that the Applicant exited in 2010-11 yet admit that Respondents continued engaging with him on matters of Company affairs thereafter. These contradictions expose the falsity of their version.

4.11. It is submitted that the Respondent's Counter is an attempt to evade liability for fraudulent actions, including illegal alteration of share capital, manipulation of statutory records, and oppression of the Applicant in his capacity as a rightful member and shareholder. The Respondents have offered no lawful justification for denying the Applicant's legitimate shareholding or for preventing rectification of the Register of Members.

4.12. The Applicant therefore reiterates all submissions made in the main Petition and prays that the objections raised in the Counter be

rejected as false, baseless and unsupported by documents, and that the reliefs sought under Sections 59, 241 and 242 of the Companies Act, 2013 be granted in the interests of justice.

## **5. WRITTEN SUBMISSIONS OF THE APPLICANT**

5.1. The Applicant, through written submissions filed pursuant to directions of this Hon'ble Tribunal, reiterates all averments and grounds in the Company Petition and rejoinder, and submits additional facts and legal propositions in support of the composite petition filed under Sections 58, 59, 241, 242, 246 and 337 to 341 of the Companies Act, 2013.

5.2. The Applicant submits that the 1st Respondent is a closely-held family company, wherein the Applicant was one of the original Directors and shareholders holding 5,000 shares constituting 19.45% of the paid-up capital, along with his parents, the 2nd Respondent and Late Mrs. G. Esther. The Applicant played an instrumental role in the development, branding and marketing of the business, including the Shelton Shirts brand, establishment of ERP processes, recruitment of staff and development of vendors and buyers.

5.3. It is submitted that the Applicant frequently travelled for Company business, including a continuous official visit to Dubai

between 20.09.2004 and 12.11.2004. Reposing complete faith in the 2nd Respondent due to the family nature of the enterprise, he believed that he continued as Director and shareholder and was never made aware of any change in his status.

5.4. The Applicant submits that only after the demise of his mother in August 2020, and after recovering from a spinal injury suffered during the pandemic period, he undertook due diligence of the Company's records in 2021 and 2022. During this exercise, upon examining documents obtained through a Company Secretary's due diligence report and other filings, he discovered a series of fraudulent acts committed by Respondents 2 to 4, including fabricated removal of his directorship, illegal transfer of his 5,000 shares, backdated transfer of his late mother's 8,200 shares and continuous acts of mismanagement and diversion of funds.

5.5. The Applicant submits that he never resigned as Director, nor did he execute any resignation letter at any point of time. However, the Annual Return for 2004–2005 shows him as having resigned on 02.11.2004. This is demonstrably false, as he was not even in India on that date but was in Dubai on Company business, as proved by his passport

and visa entries and an e-mail dated 01.11.2004 stating that he would return only on 12.11.2004. Thus, the alleged resignation is impossible and fabricated.

5.6. It is further submitted that no resignation letter has ever been produced by the Respondents despite explicit directions of this Hon'ble Tribunal dated 21.02.2024 requiring them to file all documents relating to the alleged resignation within two weeks. The continued non-production of the primary document conclusively proves that no such resignation was ever submitted by the Applicant.

5.7. It is submitted that if his fraudulent removal is set aside, all subsequent actions of the Respondents including the dramatic increase in the 2nd Respondent's shareholding in 2014–15 and other decisions are vitiated in law and liable to be declared void.

5.8. It is also submitted that his 5,000 shares were also unlawfully and fraudulently transferred to the 2nd Respondent. He discovered from the Annual Return for 2011–2012 that his name had vanished from the Register of Members and that the 2nd Respondent's shareholding had increased by precisely 5,000 shares corresponding to his original holding. He never executed any share transfer deed, never received any

consideration and never attended any Board meeting approving such transfer.

5.9. It is further submitted that the alleged transfer does not appear in the “Details of Share Transfer” schedule of the financials for the relevant period, despite the fact that the acquisition of 500 shares by the 3rd Respondent is duly recorded there. This selective non-disclosure proves that the alleged transfer of the Applicant’s 5,000 shares never occurred and is a fraudulent manipulation of ROC filings.

5.10. The Respondents were directed on 21.02.2024 to file all documents relating to the alleged transfer, including share transfer deeds, consideration records and Board resolutions. None were produced. Instead, the Respondents rely solely on Annual Returns without specifying any date of transfer and have advanced a new, legally untenable argument that transfers among family members or persons “exiting” the Company need not be recorded in financial statements. The Applicant submits that this argument is absurd, contrary to accounting standards and was never even pleaded earlier.

5.11. The Applicant therefore submits that the alleged transfer of his 5,000 shares is void under Sections 58 and 59 of the Companies Act, 2013,

and also void under Section 25 of the Indian Contract Act for want of consideration.

5.12. The Applicant submits that the transfer of Late Mrs. Esther's 8,200 shares to the 2nd Respondent on 10.08.2020 is equally fraudulent. Both the Applicant's parents were extremely ill throughout August 2020, later diagnosed with COVID-19, and were under continuous care at home. The Applicant personally attended to them and states that no one left the house during that period due to the strict COVID lockdown.

5.13. The Annual Return for 2020–2021 nevertheless shows that Late Mrs. Esther allegedly executed a share transfer in favour of the 2nd Respondent on 10.08.2020. This is impossible, considering her medical condition, the 2nd Respondent's illness and the prevailing lockdown restrictions which prevented movement, procurement of stamp papers and execution of documents.

5.14. The Applicant further points out that the signatures purporting to be those of Late Mrs. Esther on the alleged share transfer forms bear no resemblance to her genuine signatures visible in earlier years' financial statements, and the Applicant submits that these signatures are forged.

5.15. The Board resolution filed by the Respondents, purportedly approving the transfer on 10.08.2020, bears the signature of the 2nd Respondent dated 21.09.2020, i.e., weeks after the death of Late Mrs. Esther on 28.08.2020. This itself demonstrates that the documents were fabricated and backdated to create a false chain of events.

5.16. The Applicant therefore submits that the Register of Members must be rectified to cancel the fraudulent 8,200-share transfer, restore the shares to the estate of Late Mrs. Esther and transmit 2/9th (1,822 shares) to the Applicant as a Class-I legal heir.

5.17. It is further submitted that serious acts of mismanagement, diversion of funds and suppression of related party transactions have also been committed by the Respondents. Al Wahaj Trading LLC, Dubai, in which the 3rd Respondent holds 49% partnership interest, owes the Company Rs. 2,37,75,162, as shown in Annexure 26 to the Petition. These dues have been allowed to remain unrecovered without any explanation.

5.18. It is submitted that Respondents 2 and 3 are siphoning Company funds to Al Wahaj Trading LLC and another Dubai entity, Al Arab Foods, controlled by the 2nd Respondent. The 4th Respondent has also

commenced a competing apparel business, raising further suspicion of diversion of Company resources.

5.19. The Respondents have not denied the outstanding dues from Al Wahaj Trading LLC and have only questioned the manner in which the Applicant obtained the financial documents. The Applicant relies on judicial precedents, including *R.M. Malkani v. State of Maharashtra and Ganesan v. Sundararaja Thevar*, to submit that even illegally procured but authentic documents are admissible.

5.20. It is submitted that Respondents have also failed to disclose related party transactions and have engaged in unlawful duty drawback claims in violation of FEMA and Customs laws, since export proceeds from related entities have not been realised within the statutory period.

5.21. It is further submitted that the petition is fully maintainable. But for the fraudulent acts of the Respondents, the Applicant would have held 6,822 shares (22.74%), thereby satisfying the threshold under Section 244. The Applicant submits that a composite petition invoking Sections 59, 241 and 242 is legally maintainable, and that the Tribunal has wide equitable jurisdiction to grant reliefs in cases of fraud and oppression.

5.22. The Applicant relies upon authoritative decisions including *Suhas Chakna v. SAHRDC Pvt. Ltd.*, *Sunil Kumar Pottem v. Sapphire Blossom Rocks Pvt. Ltd.*, *Abraham Reji v. Meenachil Hotels*, *Meenachil Hotels v. Abraham Reji*, *WWA v. Margaret T. Desor and Mrs. Shailaja Krishna v. Satori Global Ltd. (Supreme Court, 2025)*, all of which affirm the Tribunal's jurisdiction in cases involving fraudulent share transfers, continuing oppression and mismanagement.

5.23. It is further submitted that limitation does not bar the petition, as the fraudulent transactions came to his knowledge only in 2021–2022 during the due diligence exercise, and it is well-settled that in cases of fraud, limitation commences from the date of knowledge. The Applicant relies particularly on the decision in *Suhas Chakna*, wherein similar backdated filings were held to constitute a continuing cause of action.

5.24. The Applicant seeks a direction for forensic examination of the signatures of Late Ms. Esther on the alleged 10.08.2020 dated transfer forms under Rule 43(3) of the NCLT Rules, 2016. The Applicant undertakes to bear the cost of such examination. Reliance is placed on *Channel Foods Pvt. Ltd. v. A.K. Nowshad (NCLAT, 2022)*, affirming the

Tribunal's power to direct forensic investigation even at the stage of written submissions.

## **6. WRITTEN SUBMISSIONS OF THE RESPONDENT**

6.1. The Respondents, through their written submissions, reiterate all averments in the counter and submit that the present petition is not maintainable as the Petitioner is not a member of the 1st Respondent Company from the financial year 2011–12 onwards, having voluntarily transferred all his 5,000 shares in favour of the 2nd Respondent in the year 2010–11. The Petitioner, having exited the Company, does not satisfy the eligibility threshold under Section 244 of the Act and therefore cannot maintain a petition under Section 241. It is further submitted that the petition suffers from limitation, delay and laches.

6.2. It is submitted that the 2nd Respondent, father of the Petitioner, rose from humble beginnings, starting as a tailor in Mumbai and gradually building a successful garment business, which led to the incorporation of the 1st Respondent Company in 1998. It is stated that at the time of incorporation, the Petitioner was only 18 years old, studying in 10th Standard, and the Company grew steadily under the exclusive leadership of the 2nd Respondent, with exports to Dubai and other

countries. The 2nd Respondent's spouse, Late Mrs. Esther, also supported the Company through her proprietorship, Happy Enterprises.

6.3. It is further submitted that between 2000 and 2004, the 2nd Respondent purchased multiple properties in the Petitioner's name purely out of paternal affection. In June 2004, the Petitioner went to Dubai to take employment with Al Wahaj Trading Establishment, a major customer of the Company. The Petitioner resigned as Director on 02.11.2004 to fully focus on his Dubai employment, and Form 32 was duly filed on 28.04.2005. The Respondents submit that the Petitioner's contention that he was abroad on the date of resignation is irrelevant, as a Director need not be physically present in India to tender resignation.

6.4. It is stated that the Petitioner returned from Dubai in 2007 after being unable to sustain his employment there. His claim that he executed an agreement for equitable mortgage of his properties in 2007 in his capacity as Director is misleading, as the documents do not describe him as a Director, and the properties were purchased by the 2nd Respondent in the Petitioner's name.

6.5. It is submitted that the Petitioner was financially supported by the 2nd Respondent and started two businesses, Eden Garments and Shalom

Automobiles, which were entirely funded by the 2nd Respondent. The Petitioner, despite assisting in Company operations, was never reappointed as Director. The Respondents submit that if the Petitioner believed that his resignation was fabricated, he would have questioned his non-receipt of Board notices immediately upon return from Dubai, which he did not, demonstrating acquiescence and delay.

6.6. It is submitted that in 2010–11 the Petitioner transferred all his 5,000 shares to the 2nd Respondent as an intra-family arrangement and completely exited the Company. No consideration was required as it was a transfer within the family, and such transfers are not separately shown in financial statements. From 2011–12 onwards, the statutory Annual Returns show only the 2nd Respondent, 3rd Respondent and Late Mrs. Esther as shareholders, and the Petitioner was never shown as member thereafter. The Respondents submit that the Petitioner is now attempting to re-enter the Company solely due to its continued profitability.

6.7. It is further submitted that the Petitioner incorporated S&S Fashions Private Limited in 2011 and was managing three entities, Eden Garments, Shalom Automobiles and S&S Fashions, but failed in all of them, leading to NPAs. He again approached the 2nd Respondent

seeking Rs. 1.5 crores to rescue the units, and also informed that one of the properties gifted to him by the 2nd Respondent had been mortgaged and was at risk of auction.

6.8. The 2nd Respondent financially assisted the Petitioner by providing Rs.1.5 crores and entering into an Interim Family Settlement Agreement dated 03.03.2015, under which the Petitioner agreed to transfer Shalom Automobiles to the 3rd Respondent and retain S&S Fashions while protecting the family properties worth about Rs. 6 crores. The Respondents submit that despite receiving substantial financial support, the Petitioner has suppressed the true purpose of the family arrangement and is now using the present proceedings to gain control of the Company.

6.9. The Respondents submit that in August 2020, the 3rd Respondent transferred 4,800 shares to his spouse, the 4th Respondent, and Late Mrs. Esther transferred her 8,200 shares to the 2nd Respondent. The Board approved both transfers at its meeting on 10.08.2020, and the transfer forms and minutes are filed. Mrs. Esther was hospitalised only on 17.08.2020 and passed away on 28.08.2020. The Respondents therefore

dispute the Petitioner's allegation that the transfer could not have occurred.

6.10. With regard to the Petitioner's allegation about the minutes being signed on 21.09.2020, the Respondents submit that the document is the minutes of the Board meeting held on 10.08.2020, duly signed by the Chairman on 21.09.2020 as per regular practice, and does not mean that the meeting was held on the date of signature.

6.11. It is submitted that after the death of Late Mrs. Esther, the Petitioner began visiting the Company and assisting the 2nd Respondent but soon developed conflicts with employees and especially with the 4th Respondent, who was inducted into the Board on 21.09.2020. Due to strained relations, the Petitioner was advised to focus on his own businesses.

6.12. It is further submitted that the Petitioner issued a legal notice in December 2021 seeking restoration of shares and a share in the properties of his mother, which was duly replied to. Another notice was issued in April 2022 which was also replied to, but thereafter the Petitioner waited 10 more months and filed the present petition in March 2023, showing further delay.

6.13. The Respondents firmly believe that the Petitioner has illegally removed from the Company records the resignation letter and the share transfer deed relating to the 2010–11 transfer of his 5,000 shares. The Respondents rely on the fact that Annexure 26, a classified Company document regarding Al Wahaj Trading Corporation's outstanding dues, is in the Petitioner's possession, which establishes that he accessed confidential Company documents and could have removed the resignation and transfer documents.

6.14. It is submitted that the allegation of oppression and mismanagement is baseless because the Petitioner ceased to be a member in 2010–11. When he is not a member, there can be no oppression of membership rights, nor is he entitled to relief under Sections 241 and 242. The Respondents therefore pray that the relief seeking declaration of oppression and mismanagement be rejected.

6.15. It is further submitted that the Petitioner himself admits, in the relief clause, that the alleged transfer of his 5,000 shares took place in 2011. The challenge in 2023 is hopelessly time-barred. Even otherwise, the transfer was an intra-family transfer, validly effected, and cannot be

challenged after 12 years, especially when the Petitioner raised no objection in the Interim Family Arrangement of 2015.

6.16. It is submitted that this Hon'ble Tribunal, by order dated 20.03.2024, recorded their submission that the Petitioner himself removed the share transfer documents from the Company. The Respondents point out that the Petitioner has suppressed this order and is falsely alleging non-compliance with the earlier order dated 21.02.2024.

6.17. With respect to the Petitioner's prayer seeking rectification of the Register of Members to restore his 5,000 shares, the Respondents submit that the claim is barred by limitation under Section 59, as a rectification claim cannot be made after 12 years, especially when the Petitioner's name was removed from the Register in 2011-12 and remained so for more than a decade.

6.18. The Respondents deny the Petitioner's challenge to the 8,200 share transfer of Late Mrs. Esther, submitting that the transfer took place voluntarily on 10.08.2020, approved by the Board on the same date, and duly supported by documents. Since her residence and the registered office were in the same building, there was no impediment to executing

transfer deeds even during the COVID period. The challenge is therefore frivolous and belated.

6.19. The Respondents submit that the Petitioner is not entitled to any transmission of shares from Late Mrs. Esther, as she transferred all her shares during her lifetime. Therefore, the prayer seeking transmission of 1,822 shares is untenable and liable to be rejected.

6.20. The Respondents further deny the Petitioner's allegation of siphoning of funds or diversion of Company resources. They submit that the 2nd Respondent invested from his personal funds into Al Arab Foodstuff LLC in 2019, and the 3rd Respondent invested from his own resources into Al Wahaj Trading LLC in 2015. No Company funds were used for these investments, nor were any hawala or FEMA violations committed.

6.21. The Respondents submit that the Petitioner has not produced any evidence to support his allegations of siphoning, money laundering or related party dealings and has made only bald and speculative allegations. In the absence of evidence, no relief can be granted under Sections 246, 339 or 340.

6.22. The Respondents strongly oppose the Petitioner's prayer seeking disqualification of Respondents 2 to 4 as Directors, submitting that the Petitioner has not produced any material to show that they are unfit or have acted prejudicially. Moreover, since the Petitioner is not a member from 2011 onwards, he has no locus to seek such reliefs.

6.23. The Respondents reiterate that the Petitioner has approached this Tribunal with unclean hands, suppressed material facts including the interim arrangement of 2015, and advanced false allegations without documentary basis. They submit that there is no cause of action to invoke Sections 241, 242 or 246, read with Sections 339 and 340.

6.24. The Respondents rely upon the judgments enclosed with the written submissions, including *Esquire Electronics Inc. v. Netherlands India Communications Enterprises Ltd.*, *Praveen Shankaralyam v. Elan Professional Appliances (P) Ltd.*, *State of M.P. v. Bhailal Bhai, Srikanta Datta Narasimharaja Wadiyar v. Sri Venkateswara Real Estate Enterprises Pvt. Ltd.*, and *P.S. Nanawati v. Jaipur Metals and Electricals Ltd.*, to support their contentions on maintainability, limitation, delay, laches and the principle that stale claims cannot be entertained.

## **7. FINDINGS OF THE TRIBUNAL**

7.1. This Tribunal has carefully considered the pleadings, documents, counters, rejoinders, written submissions and oral arguments advanced by both sides.

7.2. The Petitioner has invoked Sections 58, 59, 241, 242, 246, 337 to 341 of the Companies Act, 2013 seeking drastic reliefs including declaration of fraudulent transfer of shares, restoration of membership, setting aside of alleged fabricated resignation, forensic examination of signature, investigation into alleged siphoning of funds, and punitive consequences. The Respondents have questioned maintainability, locus standi, limitation, delay, laches, suppression of material facts and lack of any substantive evidence.

7.3. Upon a comprehensive evaluation of the material placed on record, the following issues arise for determination:

(i) Whether the Petitioner is a member of the 1st Respondent Company and thereby satisfies the threshold under Section 244 for invoking Section 241;

(ii) Whether the challenge to the resignation dated 02.11.2004 and the alleged transfer of 5,000 shares in 2010–11 is maintainable in law;

(iii) Whether the transfer of 8,200 shares by Late Mrs. Esther on 10.08.2020 is liable to be interfered with;

(iv) Whether any case of oppression or mismanagement under Sections 241–242 has been made out; and

(v) Whether any relief under Sections 246, 337–341 can be granted.

7.4. Upon perusal of the statutory Annual Returns from FY 2011–12 onwards, this Tribunal notes that the Petitioner's name does not appear as a shareholder at any point after 2011–12. It consistently and unambiguously reflected only three shareholders, that is of the Respondents 2, 3 and Late Mrs. Esther. The Petitioner's own pleadings acknowledge that the impugned transfer allegedly occurred in 2010–11. The Register of Members is a statutory document maintained under Section 88 of the Act, and unless declared fraudulent, must be presumed correct. The Petitioner has not produced any contemporaneous evidence, share transfer deed, correspondence, or Board records disproving the entries of 2011–12 onwards.

7.5. The law presumes correctness of statutory filings unless proved fraudulent. The burden lies heavily on the person challenging them. In

this case, the Petitioner has not produced a single primary document to establish that he continued as a shareholder after 2011–12.

7.6. The Petitioner’s explanation that he “trusted” the Respondents and did not examine filings cannot override the statutory presumption. When a person claims oppression as a minority member, the very foundation is his membership. If membership is disputed, strict proof is required, which is absent.

7.7. Therefore, as on the date of filing of the petition, the Petitioner is not a member, and consequently fails the threshold under Section 244(1)(a) for invoking jurisdiction under Section 241.

7.8. The Petitioner’s case is that his 5,000 shares were “fraudulently removed”, fabricated and without consideration. But the petition itself acknowledges that the removal occurred in 2011. A challenge in 2023 is thus brought after 12 years. The Tribunal notes that the Petitioner was actively running “Eden Garments”, “Shalom Automobiles” and “S&S Fashions” during 2010–2020, received substantial financial assistance from the 2nd Respondent, and in 2015 executed an Interim Family Settlement Agreement. At no point did he demand restoration of shares or claim continued membership.

7.9. Where a shareholder alleges fraudulent deprivation of shares, the burden is on him to produce minimum evidence like bank statements, emails objecting to transfer, Board minutes, correspondence showing surprise upon discovering removal. None of these exist.

7.10. This Tribunal noted that delay extinguishes equity. A rectification petition must be filed within a reasonable period. Twelve years is grossly unreasonable. Even assuming the Petitioner was unaware initially, he admittedly (i) returned from Dubai in 2007, (ii) participated in business activities thereafter, (iii) entered into a Family Settlement in 2015, (iv) exchanged legal notices in 2021 and 2022, yet took no steps challenging the alleged transfer until filing this petition in 2023. This long period of silence amounts to clear acquiescence. Relief under Section 59 cannot be invoked after such extraordinary delay, particularly when the Petitioner himself pleads that the event occurred in 2011. The doctrine of laches squarely applies.

7.11. With respect to the alleged resignation as Director dated 02.11.2004, the Petitioner asserts that this resignation is fabricated because he was abroad on that date. The Tribunal notes that Form 32 was filed with the ROC in 2005. The Respondents counter that resignation can be sent

digitally or in absentia, and the Petitioner's challenge to a 2004 resignation, raised after nearly nineteen years, cannot be entertained. A director who believes he continues in office would have immediately questioned the issue upon not receiving notices of Board Meetings and AGMs, particularly after his return to India in 2007. The Petitioner's conduct actively running his own businesses and engaging with the 1st Respondent only on friendly terms, demonstrates that he never asserted a continuing directorship. A challenge raised after two decades cannot lie and is barred by delay, acquiescence and constructive knowledge.

7.12. It is noted that if the Petitioner genuinely believed himself to be a Director, the first reaction upon return to India would have been to demand participation in Board meetings. His total silence until 2021 indicates acquiescence to the position recorded in ROC.

7.13. It is trite law that corporate filings subsist unless challenged promptly. A challenge after 19 years is not maintainable. Even assuming the Petitioner was abroad on the date of resignation, the Tribunal cannot reopen filings of 2004–2005 after two decades without cogent evidence.

7.14. Thus, the challenge to the alleged resignation is barred by delay, laches, acquiescence, and constructive knowledge.

7.15. The next issue relates to the transfer of 8,200 shares by Late Mrs. Esther to the 2nd Respondent on 10.08.2020. The Petitioner alleges forgery and impossibility due to her illness. The Respondents have placed on record:

(i) Share Transfer Forms,

(ii) Board Minutes dated 10.08.2020 approving the transfer, and

(iii) Hospitalization records showing admission only on 17.08.2020.

7.16. The Petitioner has produced no handwriting expert report, no medical certificate showing incapacity on 10.08.2020, and no evidence proving inability to sign documents.

7.17. This Tribunal notes that the Board resolution approving the transfer is placed on record and the transfer took place on 10.08.2020. We also note that the residence and registered office were in the same building. Thus, execution of documents locally is not improbable. The Petitioner has neither produced expert opinion nor any signature comparison report to substantiate the allegation of forgery. The fact that the minutes are signed on 21.09.2020 a later date, does not invalidate the meeting held earlier. It is settled law that minutes need not be signed on

the same day as the meeting. The hospital records show admission only on 17.08.2020. Therefore, there is no ground to invalidate the transfer.

7.18. The Petitioner claims transmission of 1,822 shares from the estate of Late Mrs. Esther. However, upon valid transfer of 8,200 shares during her lifetime, no shares remained in her estate. Transmission cannot be sought in absence of property available for transmission. Therefore, the prayer for transmission must fail.

7.19. Coming to allegations of siphoning, diversion of funds, related party violations and FEMA contraventions, the Tribunal finds that the Petitioner has placed no documentary evidence such as bank statements, audit reports, forensic reports, or financial irregularities demonstrating mismanagement. Mere reliance on outstanding receivables from overseas customers, without establishing fraud or misconduct, cannot constitute oppression or mismanagement. It is well settled that commercial decisions of directors cannot be interfered with unless there is demonstrable fraud or mala fide intent.

7.20. The Petitioner alleges related party transactions but has not established that the Dubai entities fall within the definition of “related

party” under Section 2(76) or that the Respondents used Company funds to set them up.

7.21. On the contrary, Respondents have shown that the Dubai entities were capitalised with personal funds. The Tribunal cannot presume fraud from general allegations. Relief under Sections 241–242 requires strict proof.

7.22. The Tribunal also notes that the Petitioner has not produced any minutes, auditor notings, financial qualifications or whistle-blower complaints to substantiate allegations of mismanagement. Even assuming some transactions appear irregular, the Petitioner has no locus to raise them after ceasing to be a member in 2011–12.

7.23. Furthermore, oppression under Section 241 must be continuous, ongoing, and prejudicial to the rights of a member. When the Petitioner is not a member after 2011–12, the question of oppression upon him as a member does not arise. A person who is not a member cannot complain of prejudice to membership rights.

7.24. This Tribunal also notes the Respondents’ contention that the Petitioner was financially supported by the 2nd Respondent on multiple occasions, executed a family settlement in 2015, and approached the

Company only after disputes arose within the family after August 2020. The timing of the petition, coupled with prior conduct, supports the inference that the present proceedings are an outcome of internal family disputes rather than any corporate oppression. Courts have consistently held that family disputes camouflaged as oppression petitions cannot be entertained under Section 241.

7.25. Even assuming the Petitioner's allegations to be true, the absence of locus standi, the extraordinary delay, and the non-production of primary evidence render the petition not maintainable. Jurisdiction under Sections 241–242 is discretionary and equitable. A petitioner who lacks standing and approaches the Tribunal after allowing alleged grievances to remain dormant for more than a decade cannot invoke equitable jurisdiction.

7.26. The Tribunal also considers that the Petitioner accessed confidential Company records (Annexure 26), which supports the Respondents' argument that documents may have been removed or selectively retained.

7.27. The Tribunal must exercise jurisdiction under Sections 241–242 sparingly. Relief is not granted merely because relationships between

parties have soured. The Petitioner has invoked punitive provisions under Sections 246, 337–341. These require prima facie evidence of fraud or wrongful acts. None have been produced.

7.28. It is observed that without establishing foundational facts, these prayers cannot be considered. To summarise the findings:

- (i) The Petitioner is not a member from 2011–12;
- (ii) The challenge to resignation (2004) and share transfer (2011) is barred by gross delay;
- (iii) The 8,200-share transfer by Late Mrs. Esther is valid;
- (iv) No evidence of oppression or mismanagement is produced;
- (v) The petition is driven by family disputes and lacks corporate substance;
- (vi) Consequential reliefs automatically fail.

Any one of the above findings is sufficient to dismiss the petition. All co-exist here.

7.29. Before parting, this Tribunal deems it necessary to refer to the settled legal position, in *Cyrus Investments Private Limited & Another v. Tata Sons Ltd. & Ors. (Company Appeal (AT) No. 254 of 2017)*, the NCLAT held that a person whose name is not found in the Register of Members cannot maintain a petition under Sections 241–242. And in

*Shailaja Krishna v. Satori Global Ltd. (2025 SC)*, the Supreme Court reaffirmed that Section 241 relief requires continuous oppression and cannot be invoked for old grievances or intra-family disputes. These principles directly apply to the present case and fortify the conclusion that the Petitioner's claims are not maintainable.

7.30. The Tribunal finds no grounds to order investigation, forensic examination or punitive action.

7.31. The Tribunal also finds that the Petitioner has approached the court with unclean hands, suppressing material facts including the 2015 family arrangement and his non-membership status. Consequently, the petition is wholly devoid of merit.

7.32. The Tribunal therefore holds that the Petitioner has failed to establish any ground warranting intervention under Sections 241–242 or other provisions invoked. All reliefs sought are rejected.

7.33. Accordingly, the **CP(CA)54/(CHE)/2023** stands **dismissed**.

-Sd-

**RAVICHANDRAN RAMASAMY**  
MEMBER (TECHNICAL)

-Sd-

**JYOTI KUMAR TRIPATHI**  
MEMBER (JUDICIAL)