THE NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH-I

CP 189 of 2023

In the matter of the Companies Act, 2013 under Sections 241, 242 and 213;
And
In the matter of oppression and mismanagement in the affairs of
S.N.V.G. Logistics Private Limited & Ors.;

Between

MR. SACHIN NATRAJAN

... Petitioner

Versus

S.N.V.G. LOGISTICS PRIVATE LIMITED & ORS.

... Respondents

Order Pronounced on 05.05.2026

Coram :

Shri Prabhat Kumar
Hon'ble Member (Technical)

Shri Sushil Mahadeorao Kochey
Hon'ble Member (Judicial)

Appearances:

For the Applicant : Adv Pooja Singh
a/w Adv. PCS Amit Jaste

For the Respondent : PCS Ajay Thorat

ORDER

Background of the case

1. The present Company Petition 189 of 2023 was filed on 16.06.2023 under Sections 241, 242 and 213 of the Companies Act, 2013 (‘the Act’) by Mr. Sachin Natrajan (hereinafter referred to as 'the Petitioner') alleging commission of oppressive acts and mismanagement in the affairs of S.N.V.G. Logistics Private Limited (hereinafter referred to as 'the Company' or 'Respondent No. 1'), by Mr. Vasudeo Hari Gondal (hereinafter referred to as 'Respondent No. 2'), and Mr. Karan Vasudeo Gondal (hereinafter referred to as 'Respondent No. 3'), and to seek relief against the said oppression and mismanagement in the affairs of Respondent No. 1 Company.

2. M/s S.N.V.G. Logistics Private Limited & Ors. was incorporated on 19.09.2018 for providing vehicle hiring and logistics business. The Petitioner and Respondent No. 2 were the co-founders, first directors, and equal promoter-shareholders of the Company holding 5,000 equity shares of Rs. 10/- each, aggregating to Rs. 50,000/- each, as per the Memorandum of Association of Respondent No. 1 Company. Together, they constituted the entire shareholding of the Company in equal halves each holding a fifty percent stake. Respondent No. 3, Mr. Karan Vasudeo Gondal, is the son of Respondent No. 2. He was subsequently inducted as a Director of the Company and was the recipient of the shares allegedly transferred by the Petitioner.

3. It is claimed by the Petitioner that, within the Company, the responsibilities of both promoters were divided along functional lines whereby the Petitioner was responsible for handling Sales and Marketing and part of the day-to-day operational activities of the Company, and Respondent No. 2, on the other hand, was assigned the domain of Accounts, Finance, Administration, Human Resources, and a portion of operations.

4. The genesis of the dispute in the present matter is that the Petitioner came across a few questionable transactions pertaining to financial irregularities alleging that the Respondent No.2 was siphoning off funds from the Company. It is alleged that the Respondents, who were responsible for the daily business of the Company did not take decisions in interest of the Company and were prejudicial which affected the growth of the business and also damaged the reputation and goodwill of the Petitioner. It is submitted that, the Petitioner was forced to resign as the Director of the Company and also transfer his 50% shares held in the Respondent Company in the name of Respondent No.3 for the consideration of Rs. 50,000/-, which was initially paid by the Respondent No.3. It is alleged that the said sale of shares was under coercion and for a consideration lower than its fair market value at the time of purported sale of the shares, accordingly, the Petitioner returned the said amount of Rs. 50,000/- purportedly, paid as purchase consideration by the Respondent.

5. The Respondents filed their reply refuting the allegations made by the Petitioner. To address the allegation of inadequate consideration for the purported transfer of shares from the Petitioner to the Respondent No. 3, this Tribunal asked the Respondent on 13.02.2024 why should they not pay the fair value of the shares to the Petitioner, upon which the counsel for the Respondent sought time to have instruction. On the next date of hearing, the counsel for Respondent informed this Tribunal that the Valuer has been appointed to carry out the valuation as on the date of transfer and the Petitioner be directed to bear 50% of valuer's fees to which the Petitioner complied. After receipt of the valuation report dated 08.07.2024, both the parties were directed to place on record their objections/ comments to the valuation report, which they did.

6. We heard both the counsels and perused the material on record.

7. The Petitioner has alleged commission of following acts of oppressions and mismanagement:

   a. The Respondents made the petitioner transfer his 50% shares in the Respondent Company forcibly and also transferred the shares in favour of Respondent No. 3 in the board meeting held on 05 January 2023, and consequently, engineered the removal of petitioner from board of company;
   b. The Respondents have made false entries, inflated expenses, and misclassified assets as expenditures, thereby distorting the true financial position of the Company;
   c. The Respondents obstructed the Company's business operations by interfering with client communications, preventing participation in contractual engagements, and withholding operational control, while also attempting to tarnish the reputation and goodwill of the Petitioner.

8. At the outset, it is noted that the Petitioner does not hold any share on the date of filing of present Petition, however, the Petitioner has pleaded that he held 50% shares of the Respondent No 1 Company until those shares were transferred in the name of Respondent No.3 by forcibly making him to sign the transfer documents at the behest of Respondent No.2 & 3 in the presence of some union leaders. It is further noted that the Petitioner has neither filed any application seeking waiver from application of the requirements specified in section 244(1) of the Companies Act, 2013 nor has prayed for the waiver in the Petition in specific terms. However, it is the case of the Petitioner that he was unlawfully and illegally ousted from the Respondent No 1 Company; thus, the Petitioner is entitled to file this Petition under the provisions of Section 241 and 242 read with Section 213 of the Companies Act, 2013.

9. In the matter of **Montreaux Resorts (P) Ltd. & Ors. Vs. Ascot Hotels & Resorts Ltd. & Ors. [2018 SCC Online NCLAT 664],** Hon'ble Supreme Court has observed as follows:

> *"17. This Appellate Tribunal vide its judgement dated 24 January, 2017 in the matter of Anup Kumar Agarwal v. Crystal Thermotech Ltd. has held as under:*
>
> *"A shareholder/member or group of shareholder/members without and notice or information cannot visualize or presume that his/their shares) will be brought down to their disadvantage, which amounts to oppression and mismanagement. On such anticipation or presumption no petition under Section 397 or 398 of the Companies Act, 1956 can be filed. Such aggrieved shareholder(s)/member(s) can file the petitioner under Section 397 and 398 of the Companies Act, 1956 only after cause of action has taken place, If that be so, the day on which a petitioner under Section 397 and 398 is filed by a shareholder/member, whose shareholding has been brought down below the requirement of having an aggregate of 10% out of the total shareholding, will be deprived to avail remedy Under Section 387 and Section 398, without their fault. He will be remediless. In 'Bhagwati Developers Pvt Ltd.' and, 'Rajahmundry Electric Supply Ltd.' aforesaid issue was not raised nor decided. For the reasons aforesaid, we are of the view that the law laid down by Supreme Court in 'Bhagwati Developers Pvt Ltd.' and 'Rajahmundry Electric Supply Corporation Ltd.' are not applicable in the case where an applicant alleges 'oppression and mismanagement' in bringing down his shareholding below the requirement of 1/10th of the total shareholding of the company, thereby deprived him of his right to sue.*

10. It is further noted that the Hon'ble NCLAT in case in the matter of **Anup Kumar Agarwal & Ors. Vs. Crystal Thermotech Ltd. & Ors [MANU/NL/0015/2017]** has held as follows:

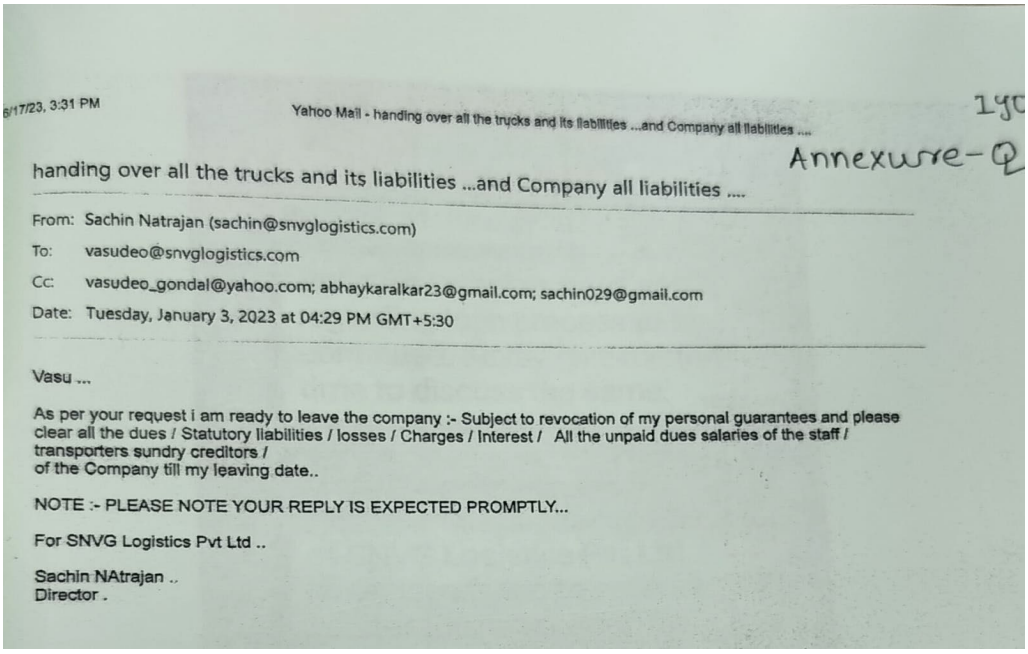
"31. The question of oppression and mismanagement and maintainability in the present case is a mixed question of facts and law. As the petition was filed on the ground that the shareholding of the applicants has been brought down below 1/10th of the total shareholding of a Company by oppression and mismanagement, Tribunal was required to decide the question of maintainability at the time of final hearing of the Petition.

Both the merit and question of maintainability were required to be decided together. On hearing the parties, in case the Tribunal forms opinion that there was no oppression and mismanagement on the date of cause of action as alleged by the applicant then in such case it was open to the Tribunal to dismiss the petition as not maintainable in view of Section 399 of the Companies Act 1956."

11. These legal prepositions were laid by Hon'ble NCLAT on the issue of maintainability of the Company Petition, filed seeking relief from the acts of oppression and mismanagement, and the issue of maintainability was raised on ground of minimum threshold not met by the petitioner for maintaining a petition against oppression and mismanagement, as the petitioner was not fulfilling the statutory limit for maintaining a petition without taking into consideration the transfer of shares from them which was alleged to be one of the oppressive act in those petition. It is noted that, in the present case, the petitioner held 50% shares in the respondent company prior to 05.01.2023 and the purported transfer of such shares by him allegedly with free consent in favour of Respondent No. 3 is alleged as an act of oppression in the present petition. Accordingly, drawing an analogy from the above judicial precedents, we consider it appropriate to proceed this petition on its merits in view of the shareholding of the Petitioner being one of the alleged oppressive acts in the present petition.

12. It is noted that the primary grievance of the petitioner stems from the transfer of his shareholding in the respondent company in favour of Respondent No. 3, thus, resulting into his removal as shareholder and thereafter as director of the Respondent company. Such transfer of shares is alleged to be engineered by Respondent No.2 in favour of Respondent No.3, his son, under threat and without adequate consideration. Admittedly, the Petitioner was paid was paid on 07.01.2023 by NEFT transfer a sum of Rs. 50,000/- towards transfer of 5,000 equity shares of Respondent Company, constituting 50% of its share capital on 05.01.2023 and the Petitioner executed necessary transfer deed evidencing sale of such shares in favour of Respondent No.3. However, it is the case of the petitioner that he was made to sign on the transfer deed for such transfer of shares in favour of Respondent No.3 under threat in a meeting on 05.01.2023, where the Respondent No. 2 & 3 were present along with union leaders, and he did so feeling intimidated and under influence; consequent thereto, he was also made to agree for his retirement from the board of Respondent Company; and the consideration paid by Respondent by transfer to his bank account was duly returned by him thereafter on 09.01.2023.

13. Per contra, the Respondents have stated that it was the Petitioner who had accepted, vide email dated 03.01.2023 to exit from the Respondent company in response to an offer made by Respondents to him. The relevant text is reproduced here under:



6/17/23, 3:31 PM Yahoo Mail - handing over all the trucks and its liabilities ...and Company all liabilities ....

Annexure-Q

handing over all the trucks and its liabilities ...and Company all liabilities ....

From: Sachin Natrajan (sachin@snvglogistics.com)
To: vasudeo@snvglogistics.com
Cc: vasudeo_gondal@yahoo.com; abhaykaralkar23@gmail.com; sachin029@gmail.com
Date: Tuesday, January 3, 2023 at 04:29 PM GMT+5:30

Vasu ...

As per your request i am ready to leave the company :- Subject to revocation of my personal guarantees and please clear all the dues / Statutory liabilities / losses / Charges / Interest / All the unpaid dues salaries of the staff / transporters sundry creditors /
of the Company till my leaving date..

NOTE :- PLEASE NOTE YOUR REPLY IS EXPECTED PROMPTLY...

For SNVG Logistics Pvt Ltd ..

Sachin NAtrajan ..
Director .

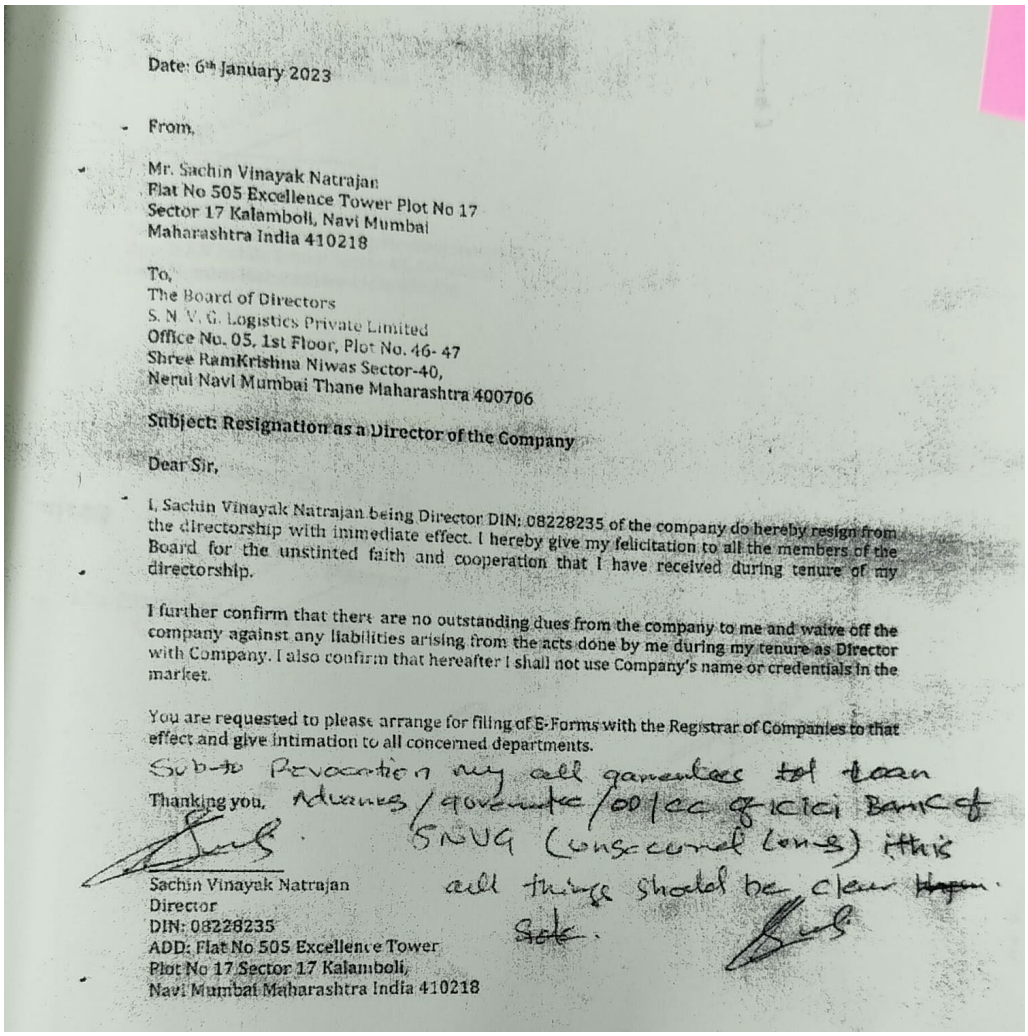
14. It is further stated by the Respondent that, subsequent to execution of aforesaid transfer deeds, the Petitioner personally visited the bank to facilitate the change in authorised signatories and to remove himself as a signatory.

15. It is noted that the purported share transfer took place on 05.01.2023 and personal guarantee of the Petitioner was released by ICICI Bank subsequently. it is further noted that the Respondent No.2 & 3 became 100% owner of the Respondent Company consequent upon such transfer thus making them liable as directors of the respondent company, to the exclusion of the Petitioner, to clear all the dues/ statutory liabilities/ losses / charges / interest / all the unpaid dues salaries of the staff/ transporters sundry creditors of the company as such liabilities were to be discharged by Respondent Company only.

16. It is further noted that the Petitioner had not filed any complaint in relation to purported threat or intimidation alleged to be caused by the Respondent to deprive him from the legitimate rights/ interest in the Respondent company by causing him to transfer his shares. Further, the present

petition has been filed on 16.06.2023. Ordinarily, a person who is caused to do some acts under threat and intimidation would take steps to undo the commission of those acts once such perceived threat or intimidation vanishes. In the present case, the Petitioner's act of return the consideration for purported transfer of shares paid to him by the respondent on 09.01.2023 indicates that such perceived threat or intimidation vanished prior to such return. However, it is noted that the Petitioner did not take any action to have the contract of transfer of shares declared illegal to want of free consent under the provision of the Indian Contract Act, 1872 except filing of the present petition under section 241-242 of the Companies Act, 2013 where the jurisdiction of this tribunal in relation to such kind of declarations is limited unless the absence of free consent as claimed by the Petitioner is prima facie evident from the collateral evidences on record. It is noted that the Petitioner has only returned the consideration, however, the Petitioner's voluntary act in relation to his discharge from the personal guarantee and his cessation as signatory to the bank account of the Respondent company does not subscribe to the plea of absence of free consent.

17. It is also pertinent to refer to the letter of resignation signed by the Petitioner, where at he had stated in his own handwriting in relation to his guarantee and other liabilities. Such handwritten note on typed resignation letter is contrary to the behaviour of a person under threat or intimidation while signing such typed document. The relevant document is reproduced hereinunder :



Date: 6th January 2023

From,

Mr. Sachin Vinayak Natrajan
Flat No 505 Excellence Tower Plot No 17
Sector 17 Kalamboli, Navi Mumbai
Maharashtra India 410218

To,
The Board of Directors
S. N. V. G. Logistics Private Limited
Office No. 05, 1st Floor, Plot No. 46- 47
Shree RamKrishna Niwas Sector-40,
Nerul Navi Mumbai Thane Maharashtra 400706

Subject: Resignation as a Director of the Company

Dear Sir,

I, Sachin Vinayak Natrajan being Director DIN: 08228235 of the company do hereby resign from the directorship with immediate effect. I hereby give my felicitation to all the members of the Board for the unstinted faith and cooperation that I have received during tenure of my directorship.

I further confirm that there are no outstanding dues from the company to me and waive off the company against any liabilities arising from the acts done by me during my tenure as Director with Company. I also confirm that hereafter I shall not use Company's name or credentials in the market.

You are requested to please arrange for filing of E-Forms with the Registrar of Companies to that effect and give intimation to all concerned departments.

Sub-to Revocation my all gaurantee tol taken Thanking you, Advance/ goverate/ oo/ cc of ICICI Bank of SNVG (consecured loans) ithis all things shodal be clear Hapen. Sole.

Sachin Vinayak Natrajan
Director
DIN: 08228235
ADD: Flat No 505 Excellence Tower
Plot No 17 Sector 17 Kalamboli,
Navi Mumbai Maharashtra India 410218

18. It is further noted that the Respondent No.2 had requested the ICICI Bank on 26.03.2023 for release of Petitioners personal guarantee in relation to the OD limit availed by the Respondent Company and said guarantee is stood released, a fact which is not disputed by the Petitioner. It is further noted that M/s All India Transporters Welfare Association, in whose office the said meeting was held on 05.01.2023 had asserted that they have not brought any sort of pressure on any person or any Company, in response to Petitioners letter to them Mr. Ashok Kanase and Punyavan Khatkar has brought a pressure on him., On perusal of certain photographs placed on record by the Respondent it is observed that the Petitioner does not look to be under pressure or a threat while signing those documents on that day in the Unions office, instead the Petitioner is seen to be speaking on phone with someone.

19. It is further noted that the Petitioner had promoted one Company namely SNSR Digital and Logistics Private Limited on 01.12.2022. It is also noted that the Petitioner is proprietor of SN Logistics while his mother is proprietor of SN Transport, and both of them together owes a sum of Rs. 16,70,320/- to the Respondent Company as on 07.01.2023. It is further noted that the Respondent No. 2 have alleged to have declined to participate for a tender floated by Birla Carbon Pvt. Ltd., however, it is a case of the Respondent No. 2 that Petitioner is already rendering transportation services to this Company through SN Logistics, accordingly it is the Petitioner who has rooted the Company's business to his proprietorship.

20. It is further noted that the valuer appointed by the parties mutually during the pendency of this petition has ascribed a negative value to the shares of Respondent Company as on 07.01.2023 after determining the value of Respondent Company under applicable approaches in negative. The Petitioner has primarily objected to such determination on the ground that a sum of Rs. 202.81 lakhs has been debited as direct vehicle expenses in the financial year 2022-23 which is abnormally high when compared to corresponding expense of Rs.7.43 lakhs in preceding financial year i.e. 2021-22 thus alleging that the Respondents have booked false entries, inflated expenses, and misclassified assets as expenditures.

21. At the outset it is noted that the Petitioner was a signatory to the Audited financial statement for the financial year 2021-22 as director. Further, the financial statements for the financial year 2022-23 shows that the Respondent Company had purchased 7 Trucks in the month of March 2022 indicating that those trucks would have been placed in operations for part of the March month of 2022 only, and were put in operations for whole of FY 2022-23. It is further noted that 1 truck was purchased in August 2022, thus 7 trucks were put in operation for whole of the financial

year and 1 truck for about $7_{1/2}$ months, accordingly if the amount of Rs. 7.43 is spent on operation of 7 trucks for average period of 15 days is extrapolated to full year it comes to Rs.178.32 lakhs, besides the cost incurred for operation of 8th truck purchased in August 2022, which comes to Rs.55.72 lakhs. Hence the aggregate of direct vehicle expenses so extrapolated, on the basis of expense for the FY 2021-22, for the FY 2022-23 comes to Rs. 234.04 lakhs, which is much higher than the amount of Rs.202.81 lakhs claimed to have been spent on direct vehicle expenses in FY 2022-23. Accordingly, we do not find any merit in the allegation of inflated direct vehicle expenses. Further on perusal of other expenses booked in FY 2022-23 it is noted that those expenses are more or less commensurate with the expenses incurred in the immediately proceeding FY 2022-23 to which the Petitioner was a signatory.

22. However, it is noted that revenue from operations has considerably fallen by 34.15% even though the Respondent Company had put its owned fleet of 8 trucks in the FY 2022-23 while it operated only for 15 days approximately in FY 2021-22. It is notied from the financial statement for the FY 2021-22 that the Respondent Company had earned its revenue from operations from hiring / sub-contracting transport work to the third parties, which is evident from 'Cost of Services consumed' amounting to Rs.955.27 lakhs debited to profit and loss account in FY 2021-22 as against revenue for operation amounting to Rs. 1050.40 lakhs, the small portion of which may have come from operation of its own fleet for approx. 15 days as discussed earlier. Though, the Respondents have not explained the reason in fall of revenue from operations in FY 2022-23 as compare to FY 2021-22, it can only be inferred that its revenue from operations from hiring / sub-contracting transport work to the third parties may have gone down considerably as is also indicative from 'Cost of Services consumed' amounting to Rs. 545.91 lakhs debited in FY 2022-

23. The relevant financial details are stated in the table below for ready reference :

Particulars	**FY 2021-22**	**FY 2022-23**	**April 2022 till 06th Jan 2023**
Revenue from operations	1,050.40	782.97	687.57
Cost of services consumed	955.27	545.92	540.46
Direct vehicle expenses	7.43	202.81	153.70
Total Vehicle expenses	962.70	748.72	694.16
% of Exp to Revenue	91.65	95.63	100.96
% of Cost of Services to Revenue	90.94	69.72	78.60

23. The above table clearly demonstrates that the valuer may not have factored the change in the business model, which is evident from the above figures where there has been shift from third party hiring/ sub-contracting to running of owned fleet as discussed in earlier paragraphs. However, it is noted that the gross margin during FY 2021-2022 was 8.35% {100-91.65} of the revenue. On account of deployment of owned fleet in place of the contracted fleet, there ought to be an increase in the operating margin, which the valuer has missed out while determining the future cashflow for the computation of value under income method. Even if it is assumed that the gross operating margin would have increased by 10% on this account, it would result into additional profit of Rs. 78.29 lakhs. It is noted that the net asset value as on 31.03.2023 is Rs. (-) 78.77 lakhs and after factoring this additional margin, the NAV shall still remain Nil. Nonetheless, it is noted that the valuer has determined average free cashflow as well as profitability in negative which is arising mainly on account of loss incurred in FY 2022-23, accordingly, the valuer has concluded that the fair value of the shares of the respondent Company is its face value in view of negative enterprise value.

24. It is noted that as on 31.03.2023 the Respondent Company's net worth is (-)78.77 lakhs, which was 11.24 lakhs in FY 2021-22. Even if the shares are valued at the net asset value as on 31.03.2022 as per audited financial statement, which is also signed by the Petitioner in the capacity of director, the value of shares of the Respondent Company held by the Petitioners as on 06.01.2023 would come to Rs. 5.62 lakhs only. It is further noted that the Petitioner has claimed a sum of Rs. 5.64 Lakhs as reimbursement for operating expenses incurred by him for arranging transportation services from third persons, and a sum of Rs.16,70,320/- is due from SN Transport and SN Logistics together while SN Transport owed Rs.15.79 lakhs as on 31.03.2022. Though it is not clear from the records however, it appears from the noting on the resignation letter dated 06.01.2023 that the accounts inter se shall stand settled between two parties after release of personal guarantee.
25. Taking all the facts together particularly formation and running of legal concerns engaged in a competing business leading to diversion of business, withdrawal of money in their name prior in time, and consent to withdrawal of personal guarantee, we do not find any merit in the allegation of the Petitioner that he was made to transfer shares at the face value which was far less than the fair value of the Respondent Company, under threat or intimidation. Instead we are of a considered view that the Petitioner have attempted to invoke equitable jurisdiction of this Tribunal to have enhanced value for his shares as an afterthought in the garb of oppression and mismanagement.
26. With the above directions, the Company Petition No. 189 of 2023 stands **dismissed** and **disposed of.**

SD/-
Prabhat Kumar
Member (Technical)

SD/-
Sushil Mahadeorao Kochey
Member (Judicial)

Vaishnavi B