THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-I

CP/761(MB)2017

Section 241-242 and 244 of the Companies Act, 2013

STARLIGHT REAL ESTATE (ASCOT) MAURITIUS LIMITED & ORS

...Petitioner

V/s

AUGUSTUS AVANI LAND DEVELOPERS PRIVATE LIMITED & ORS

…Respondent

Order delivered on: 18.08.2026

Coram:

Shri Prabhat Kumar Hon'ble Member (Technical)	**Shri Sushil Mahadeorao Kochey** Hon'ble Member (Judicial)

Appearances:

For the Petitioner	:	Mr. Aman Hingorani a/w Ms. Rhea Parkash, Mr. Ujjwal Batta
For the Respondent No.1	:	Mr. Jehan Fauzdar
For Respondent No.2 to 4	:	FCS Seema Kolwadkar, Anmol Jha Adv. Dhruv Surana for Ascot Realty Private Limited. Adv. Chintan. B. a/w Adv. Chaitan

Lakhani for Jagriti Trade Services Pvt.Ltd.,
Adv. Joshi. S. Mehta a/w Dhruv Surna for Ascot Realty

ORDER

1. This Company Petition is filed on 07.12.2017 by M/s Starlight Real Estate (Ascot) Mauritius Ltd. ("SRE_Ascot"), Starlight Real Estate Mauritius Ltd. ("SRE"), and Mr. Abdul Sattar Adan Ali Mamode Hajee Abdoula ("Abdoula") (collectively referred as "Petitioners") alleging commission of act of oppression and mismanagement by Respondent Nos. 2 to 4 in the affairs of Augustus Avani Land Developers Pvt. Ltd. ("Respondent Company/Augustus"). The Petitioners have sought following reliefs:-

    a) *For appropriate orders, reliefs and directions under sections 241, 242 and 244 of the Companies Act, 2013, to bring an end to the, aforesaid acts of mismanagement, misappropriation and embezzlement of funds perpetrated by Respondent Nos. 2 to 4, and for necessary orders and reliefs in respect thereto, including as prayed for herein;*
    b) *That appropriate orders, reliefs and directions under sections 241, 242 and 244 of the Companies Act, 2013, be passed for the management of the Company, and for that purpose, this Hon'ble Tribunal ought to pass orders for appropriate management of the Company and for that purpose to achieve this end, Hon'ble Tribunal direct Respondent Nos. 5 and 6 to accept and take on record the filing of eForm to regularize and take on their respective records, the removal of Respondent Nos. 2 to 4 and appointment of Petitioner Nos. 3 and Mr. Nissar Ahmed as the directors of the Company, and/or for further consequential and other direction as this Hon'ble Tribunal may deem fit and proper having regard to the facts and circumstances of the present case;*

c) *That by a permanent order, direction and/or injunction, the Respondent Nos. 2 to 4 be restrained and/or prevented from in any manner (directly and/or indirectly) acting as, dealing with and / or representing as directors of the Company in any manner whatsoever, dealing with possessing and/or alienating and/or alienating the assets, properties, monies, accounts or business of the Company and/or from holding any further board meetings and/or from proceedings with any board meetings which may have been scheduled, and from acting on and/or passing any resolutions touching upon and/or affecting the business, assets and/or properties of the Company;*

d) *This Hon'ble Tribunal be pleased to issue a permanent injunction restraining and/or prohibiting the Respondents Nos. 2 to 4 from representing and/or dealing on behalf of the Company, either by themselves or through their agents, representatives, servants otherwise, and restraining the Respondent Nos. 2 to 4 from in any manner (directly and/or indirectly) seeking to sell, transfer, alienate, encumbering and create third party rights/interest and/or otherwise convey Company's right, title and/or interest its properties and/or assets (both movable and immovable) properties and otherwise the business of the Company,*

e) *This Hon'ble Tribunal be pleased to issue a permanent injunction restraining and/or prohibiting the Respondent Nos. 2 to 4 and/or their nominees and/or their representatives from in any manner (directly or indirectly) dealing with the said Company and/or the Current Account No. 019-350636-001 of the Company, with HSBC Bank and/or any other bank accounts of the Company;*

f) *This Hon'ble Tribunal be pleased to order and declare that the actions of Respondent Nos. 2 to 4 (by virtue of them not being directors of the Company and as nominee director on the board of Ascot Reality Private Limited) since September, 2009 are illegal, null and void and that the same do not bind the Respondent No. 1 Company and/or the Petitioners* *in any manner and the same are violated by exercise of wrongdoing and illegalities by Respondent Nos. 2 to 4;*

g) *That this Hon'ble Tribunal be pleased to condone the delay in holding AGM, filing balance sheets and compound proceedings on account of the same as detailed in Annexure "A-40";*

h) *That the Respondent Nos. 2 to 4, their servants, agents and assigns be ordered and directed to make a full, free and complete disclosure of their dealings in relation to the Company and/or the records of the Company with regard to the affairs of the Company, the documents /letters / mails or correspondence either received by the Company or written / signed or sent on behalf of the Company, the contracts entered into between the Company and the loans given by the Company, inter alia, being:*

   i. *The audited profit and loss accounts, balance sheets accompanied by the auditor's reports of the Company from 31st March, 2008 till the date on which provided;*

   ii. *Minutes of Meetings of the Annual General Meetings of the Company from 31st March, 2008 till date on which provided;*

   iii. *Minutes of Meetings of the Board of Directors of the Company from 31 March, 2008 till date on which provided;*

   iv. *Detailed report of inflow and outflow of funds, and manner in which the same have been deployed/expended by the Company from 31 March, 2008 till the date on which provided, together with supporting documents;*

   v. *Bank Statements of all bank accounts of the Company from 31st March, 2008 till date on which provided;*

   vi. *Details of investments made and loans given by the Company from 31st March, 2008 till date on which provided;*

   vii. *Details of financial arrangements entered into with Banks/Financial Institutions for availing loans by the Company from 31st March, 2008 till date on which provided; and*

viii. *To present all documents/ communication/notices that were addressed to them and / or on behalf of the Company, or which they have received (incl. bank statements and regulatory statutory notices); or which were signed or sent or represented as directors, and/or on behalf of the Company with any party whatsoever.*

i) *That this Hon'ble Tribunal be pleased to restrain the Respondent Nos. 2 to 4, their servants, agents and assigns, by a permanent order and injunction of this Hon'ble Tribunal from in any manner:*

   i. *increasing, issuing and/or allotting any further shares in any form or manner whatsoever in the Company;*
   ii. *investing, selling, disposing off, encumbering, alienating and/or creating any third party rights qua the property or assets (both movable and immovable of the Company;*
   iii. *interfering with or disturbing the shareholding of the Petitioners Nos. 2 and 3 in the Company;*
   iv. *creating any liability in the Company, giving loans or transfers in the Company save and except with the prior written consent of the Petitioners; and*
   v. *utilizing the funds of the Company for the purpose of the instant litigation in any manner whatsoever.*

j) *for a permanent injunction restraining and/or prohibiting the Respondent Nos. 2 to 4 from interfering with and/or restricting the Petitioners, their Directors, officers, agents from entering, using and/or accessing the registered office of the Company;*

k) *for a mandatory injunction against the Respondent Nos. 2 to 4 to handover all the statutory and secretarial record, contracts and agreements, books of accounts and correspondence of the Company to the Petitioners, or their nominees;*

l) *that for appropriate order, injunction and/or direction against Respondent No.4 removing him as Respondent No. 1's nominee Director on the board of Ascot;*

m) *that by a mandatory order and/or direction and/or injunction, the Respondent Nos. 2 to 4 be restrained and/or injuncted and/or prevented from entering upon the registered office of the Company and from attending, calling and/or proceedings with any meetings which may have been scheduled, and from passing any resolutions touching upon and/or affecting the business of the Company and/or Ascot;*

n) *that Respondent Nos. 2 to 4 be jointly and severally ordered and declared to pay to the Company an amount of Rs. 3,00,00,000/- (as per the statement at Annexure-"A-42") alongwith interest @ 18% pa from 21 October 2009 till realization being the losses and damages that have been caused to the Company owing to the acts of malfeasance and misfeasance committed by Respondent Nos. 2 to 4 in their purported capacity as directors of the Company;*

o) *that Respondent Nos. 2 to 4 be jointly and severally ordered and declared to pay to the Company an amount of Rs. 28,51,83,561/- (as per the statement at Annexure "A-41") alongwith interest @18%p.a. till realization being the payment effected from the account with HSBC Bank pursuant to orders passed by the Hon'ble Calcutta High Court in relation to Execution Application filed in Arbitration Proceedings adopted by Jagrati Traders Services Private Limited against Respondent No. I Company;*

p) *costs of and incidental to this Petition be paid by the Respondents; and*

q) *Such further or other order or orders be made and/or direction or directions given as to this Hon'ble Tribunal may seem fit and proper:*

2. Respondent No. 1, viz. AUGUSTUS AVANI LAND DEVELOPERS LIMITED, Corporate Identification Number U45201MH2007PTC170551. was originally incorporated on 3rd May 2007 (hereinafter referred to as "the

Company") as a private company limited by shares, under the provisions of the Companies Act, 1956 (hereinafter referred to as "the 1956 Act") and is a continuing Company within the meaning of the Companies Act, 2013 (hereinafter referred to as "the 2013 Act"). The registered office of the Company is at the address mentioned hereinabove. The Company is engaged inter alia, in the real estate business in India. The Company was incorporated as a real estate and infrastructure development company under the laws and the Foreign Direct Investment Policy of India ("FDI policy).

3. Petitioners Nos. 1 and 2, viz. Starlight Real Estate (Ascot) Mauritius Ltd and Starlight Real Estate Mauritius Ltd. are foreign body corporates, who hold 50,09,500/- (Fifty Lakhs Nine Thousand Five Hundred) equity shares of the Company, constituting and representing 100% of the issued, subscribed and paid up share capital of the Company, and the promoters of Respondent No.1 in compliance with the FDI policy framed under the Foreign Exchange Management Act, 1999.
4. The main business of the Company is to carry on in India and abroad the business of acquirer, buyer, developer, rehabilitator, redeveloper, maintainer, seller, hirer, lease holder, manager, or otherwise deal in the lands, dwelling houses, housing colonies, tenements, habitats, shop, offices, industrial estates, townships, settlements, hotels etc. and other immovable properties and to provide all kinds of amenities, facilities, provisions and infrastructure such as roads, public lighting system, water and sewerage treatment plants etc. and/or sell or otherwise dispose of the same on ownership basis, installment basis, hire purchase basis or lease basis, transfer such building to cooperative society, or association of persons, individuals or otherwise as the case may be.
5. Respondent Nos. 2 to 4, namely Mr. Neeraj Kumar Pandey, Mr. Rajendra Gajanan Deshpande and Mr. Rajen Krishan Sikka are the former directors of the Respondent No. 1 Company, who are alleged to masquerade and purport to act as directors of the Company despite the repeated protests and objections of 100% share holders of the Company i.e. Petitioner Nos. 1 and 2. Respondent No. 2 was

a Nominee Director and Company Secretary of Respondent Company and was appointed on 24th September 2008 as a nominee director and appointed as a Company Secretary on 11th June 2008. Respondent No. 3 was appointed as an additional director of the Company on 3rd September 2009 by Respondent No. 2. Respondent No. 4 was also appointed as an additional director of the Company on 10th September 2009 by Respondent No. 2. It is claimed that the Respondent Nos. 2 to 4 do not continue as directors of the Company, however, Respondent Nos. 2 to 4 wrongly hold themselves out as directors of the Company, to wrongfully and illegally dominate its affairs and thereby misappropriate the assets and funds of the Company. It is at their hands that oppression qua the entire body of shareholders (Petitioner Nos.1 and 2) and mismanagement of the Company is being perpetrated.

6. In 2007, the Company entered into a 50:50 Joint Venture Agreement with Jagrati Traders Services Private Limited ("Jagrati"), S.B. Overseas Limited, Acme Consultants Private Limited and Beltas Merchants Private Limited (together referred as "Sarda Group") to form a private limited company named Ascot Realty Private Limited ("Ascot") to engage in the business of acquirer, buyer, developer, rehabilitator, redeveloper, maintainer, seller, hirer, lease holder, manager, or otherwise deal in lands, dwelling houses, housing colonies, tenements, habitats, shops, offices, industrial estates, townships, settlements, hotels, holiday resorts, hostels, service apartments, club house, hospitals, health care centres, factories, warehouses, service centres, office premises, IT parks, lease of lands, flats, commercial establishments of any and all types and other immovable properties and to provide all kinds of amenities, facilities, provisions, and infrastructure such as roads, public lighting system, water and sewage treatment and plants, overhead water storage tanks, etc. and/or sell or otherwise dispose of the same on ownership basis, installment basis, hire purchase basis or lease basis, transfer such building to co-operative society, or association of persons, individuals or otherwise as the case may be. Respondent No. 4 is a Director on the board of Ascot.

7. Augustus is wholly owned subsidiary of the Applicants and the original petitioners had sought relief against the Directors of Augustus i.e. Respondent No. 2, 3 and 4 in the Company Petition, namely, Mr. Neeraj Kumar Pandey, Mr. Rajendra Gajanan Deshpande and Mr. Rajen Krishnan Sikka respectively. In the Company Petition it is alleged by the Petitioner that Mr. Neeraj Kumar Pandey was appointed as "Alternate Director" to one Mr. Robert Keane on 12.09.2007, and later on appointed as Director of Augustus on 24.09.2008. At that time the Board of Augustus had only one Director namely Mr. Alok Sureshchandra Vajpeyi, who was appointed as Additional Director on 12.08.2008, as the earlier directors had ceased to be the directors on the board of Augustus. Further, as on 23.04.2009, only Mr. Neeraj Kumar Pandey remained the sole director on the board of Augustus. It is noted from MCA Portal (www.mca.gov.in) that the Board of Augustus comprise of Original Respondent Nos. 2 to 4 in the company petition.
8. SRE-Ascot, a foreign body corporate, entered into a 50:50 Joint Venture Agreement dated 26th September 2006, inter alia, with Sarda Group an Indian group of companies, comprising Jagrati and other corporate entities, to form a private limited company in India, namely Ascot Realty Private Limited. The said Agreement dated 26th September 2006 between Petitioner and Jagrati was superseded by Joint Venture Agreement dated 12th July 2007 entered into between Augustus and Jagrati, on the same terms. Pertinently, clause 5.1 of the Joint Venture Agreement provides that Augustus and Jagrati would have an equal representation of nominee directors on the Board of Ascot. The clause 3.2 of the said Joint Venture Agreement provides that Ascot Paid-up Equity Share Capital and Paid-up Preference share Capital of Ascot shall be held by SRE-Ascot and Sarda Group, which here are represented by the Petitioners and Jagrati respectively. Clause 3.5 of the said agreement further provides that each party shall subscribe to the subsequent share capital of Ascot as and when raised, either directly or through one or more Permitted allottees or partly themselves and

partly through one of more Permitted allottees, clearly requiring both the groups to infuse equal amount of capital in Ascot.

9. It is the case of the Applicant that the Original Respondent No. 2 continued as a sole Director from 23.04.2009 and he appointed Respondent Nos. 3 and 4 as Additional Director allegedly without informing, taking the consent of and/or against the wishes of the Petitioner Nos. 1 and 2, the 100% shareholders, as the Original Respondent No. 2, being sole director of Augustus at the time was incapable of calling and holding a valid board meeting of the Company for the appointment of Respondent Nos. 3 and 4. Further, the Respondent No. 2, who was also responsible for Secretarial work, wrongfully filed Form 32 in relation to said appointment.

10. It is also alleged that the intention of Respondent Nos. 2 to 4 was always to enrich themselves at the cost and expense of the Augustus and to make profit from themselves. In this regard it is alleged that the shareholders of the Augustus had to remit a some of Rs. 28,51,83,561/- in the account of Augustus, which was transferred to Ascot to comply with purported obligations of foreign shareholders under FDI Policy pursuant to the orders passed in execution proceedings of a arbitral decree by Hon'ble Calcutta High Court without ensuring the equal contribution from Jagrati in Ascot in terms of the JV Agreement. It is also alleged that the Respondent Nos. 2 to 4 extended interest free loan of Rs. 1,00,00,000/- to each of them aggregating to Rs. 3,00,00,000/- on 21/22 October, 2009 without any stipulation of its repayment.

11. It is case of the petitioner that the Respondent No. 2 along with the Respondent Nos. 3 and 4 acted to the detriment of Augustus without holding any valid authority; also colluded with Jagrati to make Augustus liable to pay Rs. 20 Crores to Ascot as their contribution to meet minimum capitalisation requirement in terms of Press Note II of 2005; let an Arbitration Award dt. 16.05.2013 passed against Augustus consequent to the dishonour of cheques of Rs. 20 Crores thereby making it liable to pay Rs. 28,51,83,561/-, which was

ordered to be recovered by the Hon'ble High Court in the execution proceedings from Augustus and was recovered through Court Receiver.

12. We have heard this matter extensively and the learned Counsel representing Petitioners, Augustus and its erstwhile directors (Respondent No. 2 to 4 herein), the newly appointed directors. Further, Ascot, Jagrati and Forensic Auditor were represented before this Tribunal pursuant to directions issued by this Tribunal.

13. During the course of the proceedings, this Tribunal, the Petitioners appointed their nominee Director(s) on Board of Augustus and the Appointment of Farhana Alimohamed, Shalini Gupta and Surabhi Subodh Gupta was taken note of by RoC, Mumbai, in compliance of the directions issued by this Tribunal vide Order dt. 20.12.2023 & 10.03.2025.

14. Further, this Tribunal passed an order dated 06.03.2026 in IA 135 of 2024 filed by the Petitioner No. 1 and 2 for appointment of Administrator in the affairs of Respondent Company and Ascot as well as protection of interest of Respondent Company in the affairs of Augustus and inspection of records. This Tribunal in the said order observed that the directions vide order dated 08.04.2024 to the Respondent Company, represented by Ms. Seema Kolwadkar, to allow the inspection of Statutory Records to the Petitioners as permissible under Section 94(3) of the Companies Act, 2013 to the Members of the Company remained uncompiled resulting into issuance of a Show cause Notice dt. 26.04.2024. The Respondents filed an evasive Reply and submitted through their Counsel on 07.06.2024 as recorded in Daily Order that "*Learned Counsel for the Respondent informs that records are not in their possession, as records of Respondent Company were lying in the premises, which has been disposed of by the group Company. This Bench is unable to understood as to how the Directors in charge of Respondent Company were not conscious for their records lying in the 3rd party premises while vacating that premise for being handed over to the buyer*". It is also relevant to notice interim order dated 05.07.2024 passed by this Tribunal -

"Mr. Niraj Kumar Pande, the Director of the Company appears in person and informs that he didn't have resources to maintain the records. He further submits that records if any were lying in office which was later on disposed of and that premises was in possession of liquidator but he omitted to remove the Companies record from that premises before being handed over to the buyer / liquidator.

The RoC is directed to look into this aspect and take appropriate legal proceedings against the Directors for their failure to maintain and preserve the records of the Company in accordance with the Companies Act.

Ld. Counsel for the Respondent is directed to place on record the year wise details of transactions undertaken with Ascot Private Limited explaining the reasons for undertaking those transactions along with detailed audited financial statement with them. In the meanwhile, the Respondent shall not undertake any further advance of money to Ascot Private Limited".

15. It is also relevant to notice following observations in the aforesaid order dated 06.03.2026, which reads as follows:-

9. On account of conflicting claims of the Petitioners and the Original Respondent Nos. 2 to 4 in relation to the status of the Original Respondent Nos. 2 to 4 on the Board of Augustus, and the absence of statutory records of Augustus, this Tribunal directed ROC Mumbai to provide the details of shareholders as well as Director of Augustus, Ascot and Jagrati. The Ld. RoC, Mumbai submitted its Report dt. 25.06. 2025, vide letter dt. 26.08.2025, providing the details of shareholding & Directors of Augustus and Ascot.

10. As per said Report, Augustus's equity capital is wholly owned by Applicants herein, and Ascot's equity share capital is held by Augustus to the extent of 50%, by Jagrati Trade Services private limited to the extent of 45% and the remaining 5% by one Mr. Jagdish Sarda.

11. Further, the Board of Augustus comprise of Original Respondent Nos. 2 to 4 in the company petition and Farhana Alimohamed, Shalini Gupta and Surabhi Subodh Gupta appointed by the Petitioners in the year 2024 & 2025 as their Nominee. However, it is noted that the DIN of Original Respondent Nos 2 & 3 is stated to be de-activated, and the Respondent No. 3 and 4 were appointed only as Additional Directors in December, 2009 and their appointment was not confirmed as Directors in the ensuing Annual General Meeting. Accordingly, we find merit in the contentions of the Applicants that the Original Respondent No. 2 only remained as a Director at certain point of time and carried out the affairs of the Respondent Company without any authority thereafter.

12. It is also noted from the MCA Portal that Augustus had filed its Audited Financial Statements last for the year ended 31.03.2010 on 18.12.2010. It is pertinent to note that the Director of a Company who fails to file Financial Statements for any continuation period of 3 Financial Years stands disqualified in terms of Section 167(1)(a) r/w Section 164(2) of the Companies Act, 2013. Further, a person is disqualified for appointment of Director in terms of Section 164(1)(h) r/w Section 152(3) unless such personal has a Director Identification Number. Accordingly, not only Original Respondent Nos. 3 and 4, the Respondent No. 2 also stood disqualified and all these persons could not have held the office of Director after expiry of last date for filing of Audited Financial Statements for the F.Y. 31.03.2013 which expired on 30.11.2013.

13. In view of the above, we agree with the Applicants that the Original Respondent Nos. 3 & 4 could not have acted as Directors after 30.09.2010 (i.e. the last date for holding for Annual General Meeting) after their appointment as Additional Director and their Office stood vacated on that day in terms of provisions of Section 161(1) of the Companies Act, 2013.

14. It is trite that the Directors are appointed by the Shareholders of the Company and holds the Office so long as the majority of Shareholders or, in case of proportional representation on the Board, the concerned appointing faction, pleases. However, in this Case, we notice that the Original Respondent Nos. 2 to 4, though owing their fiduciary duty to the Applicants herein, were not even obeying their directions and were not enabling them to have updated information/knowledge in relation to business affairs of Augustus. It is evident from these facts that the purported Directors i.e. Original Respondent Nos. 2 to 4 had hijacked Augustus, which became more apparent when despite appointment of nominees on the Board of Augustus notified by the Applicants herein was not communicated to the RoC in the prescribed form by the Original Respondent Nos. 2 to 4, which they ought to have done when the matter is sub judice before this Tribunal and such nomination on the Board is taking place under its aegis. In our considered view, the conduct of Original Respondent Nos. 2 to 4 deserves to be condemned and deplored as such conduct has larger ramification on the foreign investment climate and the persons appointed as nominee of such foreign investors on the Board of investee Company should not be allowed to take the foreign investors to ride.

15. After considering all these facts, this Tribunal had appointed M/s Khandelwal Jain & Co. LLP as Forensic Auditor of Augustus, however, the appointed Auditor could not move forward due to continued resistance from the Respondent Nos. 2 to 4 and Ascot to provide the relevant details. This Tribunal on 11.07.2025, recorded that "4………… Admittedly, Ascot Realty Pvt. Ltd. has not provided any information so far and has submitted before this Tribunal that their appeal against the order is pending before Hon'ble NCLAT. Accordingly, the exercise of said audit could not be continued. This bench also directed to the Directors of Respondent Company, Ascot Realty Pvt. Ltd. and Jagriti

Trade Services Pvt. Ltd. to make available all the documents/records/information, in their control or possession, as required by Forensic Auditor. However, no documents/records/information has so far been provided by Directors of these Companies. It is pertinent to note that the directors on the board of Ascot Realty Pvt. Ltd. are nominees of Jagriti Trade Services Pvt. Ltd. in its capacity of Joint venture partner in Ascot Realty Pvt. Ltd."

16. It is evident from the above that Respondent Nos. 2 to 4 have misused their position to the detriment of its 100% shareholder(s), and have also committed breach of trust. In view of the office of director held by Respondent Nos. 2 to 4 having vacated by operation of law, no further order is required for their removal. Nonetheless, the Registrar of Companies shall take note of these facts and update their records. Further, the Registrar of Companies shall take note of appointment of new Directors, if not taken earlier, and update their records accordingly through back-end process, in case e-filing thereof is not allowed by the system in view of Respondent No.2 to 4's inaction in this relation. Needless to say, the Respondent No.2 to 4 shall not, in any manner, obstruct or impede the functioning of the Respondent No.1 Company and shall not enter into the registered office or any other office of Respondent Company and Ascot unless required by Augustus.

17. It is also noted that Respondent No.2 to 4 had paid back an aggregate sum of Rs.2,30,00,000/- on 24.10.2009 itself, as evidenced from the bank statement of Augustus placed on record by them in their Reply, out of Rs. 3,00,00,000/- transferred by them to their personal accounts on 21.10.2009. This is also corroborated vide email dated 23.10.2009 from Respondent No.2 to Petitioner No.3 intimating that the amount outstanding as on that date from Respondent No.2 to 4 is Rs.12,00,000/-, Rs.40,00,000/-, and Rs.18,00,000/-. It is further noted from the Reply of Respondent No.2 to 4 that *the respondent No. 1 company was liable to make payment of salaries and expenses to the employees through Dawnay Day India Land Private Limited and they were not paid their salaries*

for months together making difficult for them to sustain themselves and their individual families. There is no rebuttal from the Petitioners to these evidences. It is noted that the email dated 23.10.2009 does not stated that the remaining money is held back by Respondent No.2 to 4 on account of their pending dues, instead the said email confirms that those amounts were taken out as non interest bearing unsecured loans. Further, no evidence has been placed on record by Respondent No.2 to 4 to demonstrate if there was an understanding whereby Respondent No.1 Company was made liable to make payment of salary and expenses to the employees of Dawnay Day India Land Private Limited . Accordignly, the suo-motu appropriation of the advance amount against this purported claims cannot be sustained In our view, this advance of loan is nothing but the siphoning of the fund by the directors in breach of their fiduciary duties to the Respondent Company as well as its shareholders. Accordingly, Respondent Nos. 2 to 4 are liable to refund amount of balance advance within 30 days, failing which they shall be liable to make the payment of interest on such outstanding advance or part there of remaining unpaid from the expiry of 30 days of this order till the date of the payment. In case of part payment, the amount so paid shall be first appropriated towards accrued interest.

18. This Tribunal had already appointed forensic auditor in terms of its order dated 06.03.2026 passed in IA 135 of 2024 for examination of affairs of Augustus in detail and requiring Ascot and Jagriti to provide the information in relation to trail of funds infused by Augustus to ascertain commission of fraud in affairs of Augustus. Further, as Augusts nominees are also appointed on the board of Ascot, and these nominees can now also be independently empowered and authorized to look into the books of Ascot and make available the requisite information to the forensic auditor. We direct Jagriti and Ascot once again to extend necessary co-operation, and decides at this juncture not to proceed against Ascot and Jagriti as well as their directors for their contemptuous acts of defiance of orders of this tribunal in this relation, with a caution that this Tribunal considers to grant them one more chance to mend their ways. In case Jagriti and

Ascot do not extend necessary co-operation in future, the Petitioner shall be at liberty to approach this Tribunal for passing an order under Section 213 of the Companies Act, 2013, and for appropriate order under Contempt of Courts Act 1971.

19. As regards direction to Respondent No.2 to 4 for making good the amount paid by Augustus to Ascot *Rs. 28,51,83,561/-,* the said funds are lying frozen in the bank account of Ascot as noted in order dated 06.03.2026 in view of non allotment of shares to Augustus against those amounts. Accordingly, we are of considered view, no order is called for in this relation. Nonetheless, Augustus shall be, at liberty, to take appropriate action against Ascot and / or Jagriti in this relation whereby Augustus was mischievously called upon to pay the said sum to comply with FDI policy on foreign investment without requiring Jagriti to make equal contribution in terms of JV agreement and also without requiring Jagriti to make their shares fully paid up by paying the unpaid amount of their shares.

20. As concluded above that the Respondent Nos. 2 to 4 in the Company Petition have ceased to be Directors, accordingly, the continuance of Respondent No. 4 Mr. Rajan Sikka, till 25.03.2019 on board of Ascot as a nominee of Augusts was illegal. Taking note of the Joint Venture Agreement between Augustus and Jagrati, this Tribunal, so as to protect interest of the Augustus, directed Ascot to appoint Augustus's nominee(s) on the Board of Ascot, which Augustus was entitled to and this fact is not disputed, however, Ascot resisted said appointment and did not file Form of Appointment of the Augustus's Nominee(s) on the Board of Ascot, despite specific directions to do so vide order dt. 17.10.2025 requiring Ascot to file appropriate Form appointing Ms. Surabhi Subodh Gupta; Mrs. Shalini Gupta and Ms. Farhana Alimohamed as the nominee(s) of Augustus on the Board of Ascot, however, the same was not done despite specific directions to do so. Nonetheless, the Registrar of Companies shall take note of these facts and update their records. Further, the Registrar of Companies shall take note of appointment of new Directors, if not taken earlier, and update their

records accordingly through back-end process, in case e-filing thereof is not allowed by the system in view of inaction on part of existing directors of Ascot in this relation.

21. Further, the list of Directors as available on MCA (www.mca.gov.in), the said list reflects the names of Mr. Pankaj Kumar Rathi; Sutapa Baral and Mr. Umesh Nagar, who undisputedly are nominee of Jagriti and accordingly are in control of its affairs to the exclusion of the applicant's right to have equal representation on board of Ascot. This also confirms despite entitlement of Augustus to have their three nominee(s) on the Board of Ascot Augustus had none since, September, 2010, even if the appointment of Mr. Rajan Sikka, the Respondent No. 4 is considered to be Legal. The non-representation of Augustus on the Board of Ascot certainly had crippled Augustus from protecting its interest as well as financial stake in the Ascot, and such disability certainly is prejudicial to the interest of Augustus as well as its Members. It is also noted that the nominee Directors of Jagriti on the board of Ascot engineered transfer of registered office of Ascot from state of Maharashtra to State of Telangana by passing a special resolution at the EOGM of Ascot held on 26.06.2025 without notice to Augustus, during the pendency of this Petition, and ostensibly to defy the order dated 10.03.2025 passed by this Tribunal for making available the documents / records / information to the Forensic Auditor appointment by this Tribunal vide order dated 28.11.2024. It is also pertinent to note that the transfer of registered office of Ascot came known to Augustus as well as this Tribunal in terms of the report dated 01.07.2026 filed by Registrar of Companies Mumbai, even though the Ascot was being represented by its Counsel time and again before this Tribunal in these proceedings. This Tribunal had arrived at finding at para 20 of order dated 06.03.2026 passed in IA 135 of 2024 that Augustus held 56.95% of total issued shares and 76.21% of paid up Capital till 31.03.2023, accordingly, no special resolution could have been passed by Ascot, had it issued notice of EOGM to its majority shareholder namely Augustus. It is also pertinent to note clause 6.3 of JVA requires that the Coram for Meeting shall be 1/3 of total

strength of the Board and presence of at least 1 Director from each group. As noted above, Augustus is not represented on the Board of Ascot after cessation of Directorship of Mr. Rajan Sikka (which also cannot said to be legal on prima facie observations of the facts before us) in March 2019, accordingly, no Board Meeting could have been held in the affairs of Ascot for any decision. Nonetheless, even if Mr. Rajan Sikka continued to be a Director of Ascot as a nominee of Augustus, the minutes of the board meeting dated 23.05.2025, as filed with Regional Director for taking approval for change of the registered office one state to another, does not record if Mr. Rajan Sikka had attended said meeting. Further, the minutes of the EOGM dated 26.06.2025 does not record the attendance of Mr. Rajan Sikka. It follows from these facts that the transfer of registered office of Ascot, being a subsidiary of Augustus as per MCA filing revealed from RoC report, from one state of another was done fraudulently by the existing Directors of Ascot, who are nominee of Jagriti the other JV Partner, and the approval accorded by Regional Director on behalf of Central Government was obtained by concealing these material facts and misrepresenting as if the board of meeting and the EOGM for said purpose were convened and held in accordance with the law and agreement between JV Partners. It is held in the case of **S.P. Chengalvaraya Naidu (Dead) by LRS v. Jagannath (Dead) by LRS & Others** - (1994) 1 SCC 1 that "A fraud is an act of deliberate deception with the design of securing something by taking unfair advantage of another. It is a deception in order to gain by another's loss. It is a cheating intended to get an advantage**"** and that **"***If he withholds a vital document in order to gain advantage on the other side then he would be guilty of playing fraud on the court as well as on the opposite party."* **.** Though we have already stated in our order dated 06.03.2026 that "***We expect the concerned officer in jurisdictional RD Office to take note of this fact and do the needful, if required, as the approval for shifting of registered office of Augustus appears to have been obtained by misrepresentation of facts***"**,** we again reiterate that the Regional Director Mumbai as well as Regional Director Telangana shall take appropriate action against the existing Directors of Ascot and examine the filings in relation to transfer of registered office of Ascot from state of Maharashtra to state of Telangana to take appropriate action for revocation of its approval for such transfer in the light of aforesaid discussion and the discussions / findings in in our order dated 06.03.2026. Needless to say, Mr. Rajan Sikka shall not, in any manner, participate or take part in the working of Ascot as nominee of Augustus on its board unless required by Augustus.

22. In terms of the above, CP 761 of 2017 is allowed and disposed of. Any other Application pending under C.P. No. 761 of 2017 shall also stand disposed of. Any interim order passed by this tribunal in terms of this petition shall stand vacated.

-Sd/-	**-Sd/-**
Prabhat Kumar	**Sushil Mahadeorao Kochey**
Member (Technical)	Member (Judicial)