IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT – 1, AHMEDABAD

ITEM No.302
Appeal/1(AHM)2023

Under Section 59 of Co. Act, 2013

IN THE MATTER OF:

Bipinkumar Babulal Jagani ....**Applicant**
V/s
Accurate PMS Pvt Ltd & Ors ....**Respondent**

Order delivered on: 07/08/2026

C O R A M:

MR. SHAMMI KHAN, HON'BLE MEMBER (J)
MR. SANJEEV SHARMA, HON'BLE MEMBER (T)

O R D E R
(Hybrid Mode)

The case is fixed for pronouncement of order. The order is pronounced in the open court, vide separate sheet.

-SD- -SD-

SANJEEV SHARMA
MEMBER (TECHNICAL)

SHAMMI KHAN
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH, COURT - I, AHMEDABAD

Company Appeal No. 1 of 2023

[Company Appeal under Section 59 of the Companies Act, 2013 r.w. Rule 11 of the NCLT Rules, 2016.]

In the matter of:

MR. BIPINKUMAR JAGANI
Residing at: 402-B Vishwas City-II,
Opp. Shayona City, Chanakyapuri Road,
Ghatlodia Ahmedabad, Gujarat – 380061

.... Appellant

Versus

1. **M/S. ACCURATE PMS PRIVATE LIMITED**
Registered office: 235-238, 2nd Floor, Block H,
Sumel Business Park 6 Old Jupiter,
Nr. Dudheshwar Circle, Dudheshwar Road,
Ahmedabad, Gujarat – 380004

2. **DINESHKUMAR PADSALA**
Residing at: A-201, Suvas residency,
Opp. Satyagrah Bunglow,
Gangotri Circle, Nikol,
Ahmedabad, Gujarat – 382350

3. **PINNAG RATHOD**
Residing at: F-204, Shyam Villa-2,
Haridarshan Char Rasta,
Opp. Devashya International School, Nava Na
Ahmedabad, Gujarat – 382415

4. **DUSHYANT PRAJAPATI**
Residing at: 26, Lavkush Bunglows, Aadishwarnagar,
Naroda Gam, Naroda,
Ahmedabad, Gujarat – 380025

5. **JATIN KUMAR PATEL**
Residing at: 07, Aeristo Villa, Opp. Bajrang Society,
Karamsad Village, Anand, Gujarat – 388120

6. **JAYKUMAR SHAH**
Residing at: ATF/B/406, Nilkanthvilla,
Nr. Subham Bunglows,
Haridarshan Cross Road, Nikol, Naroda Ro Ad,
Ahmedabad, Gujarat-382350

7. **THE REGISTRAR OF COMPANIES, GUJARAT**
ROC Bhavan, Opp. Rupal Park Society,
Behind Ankur Bus Stop,
Naranpura, Ahmedabad-380013

.... Respondents

Order Pronounced on: 07.08.2026

CORAM:

SH. SHAMMI KHAN, HON'BLE MEMBER (JUDICIAL)
SH. SANJEEV SHARMA, HON'BLE MEMBER (TECHNICAL)

APPEARANCE:

For the Appellant	: Mr. Vinit Nagar, Advocate
For the Respondents	: Mr. Jaimin Dave, Advocate a.w. : Ms. Hirva Dave, Advocate for R-1 to 5 : Ms. Noopur Dalal, Advocate for R-6

ORDER
(*Per*: Bench)

1. This Company Appeal has been preferred by one Mr. Bipinkumar Jagani (hereinafter as, "the **Appellant**") under Section 59 of the Companies Act, 2013 read with Rule 11 of the National Company Law Tribunal Rules, 2016 (hereinafter as, "the **NCLT Rules**") seeking rectification of the Register of Members in M/s. Accurate PMS Private

Limited (hereinafter as, "the **Respondent No. 1 Company**")and further seeking following reliefs: -

a) *To Direct Company to rectify the Register of Members by reinstating the name of Appellant in the register of members; and*

b) *To declare the impugned transfer of 10,000 equity shares of Rs. 10 each made in the favor of the Respondent No. 2 as null. and void and not binding on the appellant; and*

c) *To direct the Company to pay damages, sustained by the Appellant and to defray the expenses incurred by the Appellant in pursuing the present matter and to impose fine on Respondent No. 2 u/s 57 of the Companies act, 2013 for his deceitful personation.*

2. The **facts** as stated by the Applicant in its application are summarised hereunder: -

2.1. It is stated that Respondent No. 1, M/s. Accurate PMS Private Limited, was incorporated on 16.12.2013 under the provisions of the Companies Act, 1956 having its registered office at Ahmedabad with an authorised share capital of Rs. 5,00,000/- divided into 50,000 Equity Shares of Rs.10/- each. The Appellant has relied upon the Master Data of the Company downloaded from the MCA Portal as on 17.12.2022 (Annexure-1) and has pleaded that neither the authorised share capital nor the paid-up share capital of the Company has undergone any alteration since incorporation and that no corporate action such as forfeiture, reduction of share capital or buy-back of securities has taken place.

2.2. It is stated that the Appellant was appointed as a Director of Respondent No. 1 Company on 02.08.2014 and was allotted 10,000 Equity Shares of Rs. 10/- each constituting 20% of the paid-up share capital of the Company. According to the Appellant, he continued as a Director till 31.12.2019, whereafter he tendered his resignation from the Board, which was duly intimated by filing Form DIR-12. It is further stated that notwithstanding his resignation from the Board, he continued to serve the Company as an employee till August, 2021 and thereafter remained associated with the Company only in his capacity as an Equity Shareholder. In support of the said averments, the Appellant has relied upon Form DIR-12 annexed as Annexure-2.

2.3. The Appellant has stated that Mr. Dinesh Kumar Padsala (Respondent No. 2) is one of the Directors and shareholders of Respondent No. 1 Company, whereas Mr. Pinnag Rathod, Mr. Dushyant Prajapati, and Mr. Jatin Kumar Patel (Respondent Nos. 3, 4 and 5 respectively) are also Directors/shareholders of the Company. Mr. Jaykumar Shah (Respondent No. 6) is stated to be the erstwhile Director of the Company, who resigned from the Board on 16.08.2022. Respondent No. 7 is the Registrar of Companies, Gujarat.

2.4. According to the Appellant, his holding of 10,000 Equity Shares constituting 20% of the paid-up share capital stood duly reflected in the Annual Return of the Company for the Financial Year 2018-19 and no communication or request was ever made by him seeking transfer of his shareholding. It is the Appellant's case that he continued to remain the holder of the said shares and no valid transfer thereof ever took place. The Appellant has relied upon the Annual Return in Form MGT-7 for the Financial Year 2018-19 as Annexure-3.

2.5. It is further stated that after Respondent No. 6 (Mr. Jaykumar Shah) resigned from the Board on 16.08.2022, he informed the Appellant during the last week of September, 2022 regarding certain alleged suspicious acts on the part of Respondent No. 2. Thereafter, the Appellant addressed an email dated 01.10.2022 to Respondent No. 1 Company seeking copies of the financial statements for the Financial Year 2021-22 and other information in his capacity as an Equity Shareholder. In response thereto, Respondent No. 2, vide email dated 03.10.2022, informed the Appellant that simultaneously with his resignation from the Board, he had also transferred his entire shareholding of 10,000 Equity Shares in favour of Respondent No. 2 and enclosed a scanned copy of the alleged Share Transfer Form, resignation letter and

Form DIR-12. The Appellant has relied upon the said email correspondence as Annexure-5.

2.6. It is stated that the aforesaid communication dated 03.10.2022 was the first occasion on which the Appellant came to know of the alleged transfer of his shares. According to the Appellant, he immediately, vide email dated 04.10.2022, disputed the alleged transfer and alleged that the Share Transfer Form furnished by Respondent No. 2 was forged and fabricated. It is further stated that the Appellant requested a true copy of the alleged Share Transfer Form for forensic examination and also sought copies of the relevant extracts of the Register of Members to verify the signatures allegedly verified by Respondent No. 4. The Appellant further states that although Respondent No. 2, by reply dated 04.10.2022, requested him to visit the registered office of the Company and inspect the documents, he was not permitted to inspect or obtain the relevant records despite his attempts. The Appellant has relied upon the email correspondence dated 04.10.2022 as Annexure-6.

2.7. The Appellant further states that upon examining the records available on the MCA Portal, he noticed that the Annual Return of the Company for the Financial Year 2019-20 reflected omission of his name from the list of shareholders by showing transfer of his entire shareholding in favour of Respondent No. 2. According to the Appellant, though his resignation letter dated 07.12.2019 stipulated that his resignation would take effect from 31.12.2019, the Annual Return reflected that Board Meetings were held on 20.12.2019 and 31.12.2019. It is the Appellant's case that no notice, agenda or notes to agenda of the said Board Meetings were ever served upon him despite his continuing as a Director till 31.12.2019. The Appellant has relied upon the Annual Return for the Financial Year 2019-20 as Annexure-4.

2.8. It is further stated that the Appellant examined the Annual Returns of the Company for the Financial Years 2013-14 to 2016-17 available on the MCA Portal and noticed changes in the shareholding pattern in different financial years. According to the Appellant, the said Annual Returns do not disclose corresponding details of transfer of shares. The Appellant has relied upon the copies of the Annual Returns for the Financial Years 2013-14 to 2016-17 collectively annexed as Annexure-7.

2.9. The Appellant further states that he addressed a notice dated 11.11.2022 to Respondent Nos. 1 to 6 calling upon them to rectify the Register of Members by restoring his name as holder of 10,000 Equity Shares constituting 20% of the paid-up share capital of the Company. It is stated that copies of the said notice were also forwarded to the Registrar of Companies, Gujarat and the Regional Director (North Western Region), Ahmedabad. According to the Appellant, despite the said notice, no corrective action was taken by the Respondents. The Appellant has relied upon the said notice as Annexure-8.

2.10. On the aforesaid basis, the Appellant has contended that his name has been omitted from the Register of Members without sufficient cause and that the alleged transfer of his 10,000 Equity Shares in favour of Respondent No. 2 is illegal and void. The Appellant has, accordingly, instituted the present Company Appeal under Section 59 of the Companies Act, 2013 seeking rectification of the Register of Members together with the reliefs extracted hereinabove.

2.11. The Appellant had also sought interim reliefs in their company appeal which has been reproduced hereinunder: -

a) To Direct the Respondents to furnish the true copy of the Company's Register of Members, Share Transfer Register and alleged share transfer form; and

b) To Direct forensic examination of alleged share transfer form in order to verify the signature of the appellant thereon through some independent forensic handwriting-signature expert.

c) To Direct the Company to withhold all the rights pertaining to the appellant's shares and keep the same in abeyance till the disposal of the present appeal.

d) To restrain the Company and the Respondent no. 2 from alienating or transferring or encumbering and *creating third party rights and interest over the appellant's shares in any manner whatsoever, which otherwise may prejudice the interest of the Appellant.*

e) *To Direct the Registrar of Companies, Gujarat to exercise its power as specified under Rule 10(6) of the Companies (Registration offices and Fees) Rules, 2014.*

3. During the pendency of the present Company Appeal, the matter came up for consideration on 26.06.2023 with respect to the interim reliefs sought by the Appellant. Upon hearing the Appellant on the prayer seeking furnishing of the true copy of the Register of Members, Share Transfer Register and the alleged Share Transfer Form, as well as permission to inspect the Register of Members, Share Transfer Register and other statutory records of the Company up to 31.12.2019, this Tribunal directed Respondent Nos. 1 to 5 to permit and facilitate inspection of the requisite statutory registers by the Appellant. The order dated 26.06.2023 is reproduced hereinbelow: -

> "We have heard Ld. PCS on interim relief sought for whereby it is pleaded to direct the Respondents to furnish the true copy of the Company's Register of Members, Share Transfer Register and alleged share transfer form. The Ld. PCS also submits that he may be permitted to inspect the Company's Register of Members, Share Transfer Register, etc. for the period up to 31.12.2019.
>
> We direct Respondents 1 to 5 to ensure and allow the inspection of the required register to the applicant. Ld.

> Counsel for Respondent No.6 submitted that now the R6 is no longer on the Board of Directors of the Company and, therefore, the direction could be restricted to only Respondents 1 to 5.
>
> It is pointed out by the Ld. PCS for the applicant that Respondent No.6 did not file reply in spite of the opportunities given. The right to file reply by Respondent No.6 is closed.
>
> With this, list the matter on 22.08.2023."

4. Pursuant to the inspection carried out in terms of the order dated 26.06.2023, the Appellant filed an **Additional Affidavit** on 26.08.2023 placing on record the observations made during the course of inspection of the statutory records produced by Respondent Nos. 1 to 5: -

4.1. The Appellant has stated that upon inspection of the Register of Members, it was noticed that the entries relating to the Appellant's alleged transfer of shares appeared to have been made subsequently and did not inspire confidence. It is contended that the Register of Members produced during inspection was inconsistent with the Annual Returns filed by the Company before the Registrar of Companies and also with the particulars contained in the alleged Share Transfer Form. According to the Appellant, the Register appeared to have been freshly prepared and did not constitute a contemporaneously maintained statutory record.

4.2. It is further submitted that the Register of Share Transfers and the alleged Share Transfer Form contained several inconsistencies with regard to the particulars of the transfer, including the folio numbers, certificate numbers and corresponding entries. According to the Appellant, the documents relied upon by the Respondents do not corroborate one another and fail to establish a valid transfer of his 10,000 Equity Shares.

4.3. The Appellant has further contended that despite the directions of this Tribunal, the Respondents failed to produce complete statutory records relating to share transfers and produced only the alleged Share Transfer Form pertaining to the Appellant. It is submitted that the non-production of the remaining transfer records and connected documents gives rise to an adverse inference regarding the genuineness and maintenance of the statutory registers of the Company.

4.4. It is also submitted that the alleged Share Transfer Form refers to specific share certificate numbers; however, the corresponding original share certificates were neither produced during inspection nor had any share certificates ever been issued to the Appellant. According to the Appellant, in the absence of the relevant share certificates, the alleged transfer could not have been lawfully effected in accordance with the provisions of the Companies Act, 2013.

4.5. The Appellant has further reiterated that the alleged Share Transfer Form is invalid and fabricated. It is contended that the instrument bears court-fee stamps instead of share transfer stamps, the signatures appearing thereon are forged, and the Respondents failed to produce any contemporaneous record to substantiate the execution of the transfer deed or the verification of the Appellant's signatures by the concerned witnesses.

4.6. On the basis of the aforesaid discrepancies noticed during inspection, the Appellant has reiterated that the statutory records produced by the Respondents are unreliable and have been manipulated to support the alleged transfer of shares. It is, therefore, prayed that the said discrepancies be taken into consideration while adjudicating the present Company Appeal and determining the validity of the alleged transfer of shares.

5. In response to the present Company Appeal, M/s Accurate PMS Private Limited (Respondent No. 1) has filed an **Affidavit-in-Reply** on 19.08.2023 through e-mode opposing the reliefs sought by the Appellant and making following submissions: -

5.1. It is contended that the Appeal suffers from delay, laches and acquiescence. According to the

Respondents, although the Appellant claims to have continued as a shareholder since 2014, he never exercised any rights as a shareholder after December, 2019, never enquired about the affairs of the Company, Annual General Meetings or statutory compliances, and remained silent for nearly three years. It is submitted that had the Appellant continued as a shareholder, he would have received notices of the Annual General Meetings.

5.2. According to the Respondents, the Appellant was aware that he had already sold his shares and, therefore, was not entitled to receive such notices. It is further contended that the Appellant has suppressed material facts and has not approached the Tribunal with clean hands. The Respondents state that upon voluntarily resigning as Director and shareholder in December, 2019, the Appellant requested the management to continue his employment and was thereafter employed by the Company till August, 2021 at an annual remuneration of approximately Rs.13,00,000/-. It is alleged that despite executing the Share Transfer Deed in favour of Respondent No.2 in the presence of Respondent No.3, the Appellant has falsely pleaded that he never transferred his shares. The Respondents have relied upon Form-16 for the Financial Years 2019-20 and 2020-21 as Annexure R-1 in support of the said contention.

5.3. The Respondents have further alleged that the present Appeal has been filed with an ulterior motive to pressurise the Company and extort money from its Directors. It is stated that after observing the improved financial performance of the Company during his employment, the Appellant sought to resile from the completed transfer of shares and thereafter demanded a sum of Rs. 50,00,000/- for settlement of the dispute. Reliance has been placed upon the email containing the said demand, annexed as Annexure R-2. According to the Respondents, upon refusal to accede to the said demand, the present Appeal has been instituted as a pressure tactic and amounts to abuse of the process of law.

5.4. The Respondents have also objected to the jurisdiction of this Tribunal under Section 59 of the Companies Act, 2013. It is contended that the rectificatory jurisdiction of the Tribunal is summary in nature and cannot be exercised where the dispute involves contested questions relating to execution of the Share Transfer Deed, genuineness of signatures, validity of stamping and allegations of fraud and forgery. According to the Respondents, such issues require detailed evidence and adjudication by the competent forum. Reliance has been placed upon the judgments of the Hon'ble Supreme Court in *Ammonia Supplies Corporation Pvt. Ltd. v. Modern Plastic Containers Pvt. Ltd.* and *IFB Agro Industries Ltd. v. SICGIL India Ltd.* to contend that where adjudication of disputed title or disputed facts is involved, the matter falls outside the rectificatory jurisdiction under Section 59 of the Companies Act, 2013.

5.5. Without prejudice to the aforesaid preliminary objections, the Respondents have furnished a para-wise reply to the Appeal. The Respondents have reiterated their objections on the questions of jurisdiction and limitation while replying to the corresponding paragraphs of the Appeal and have contended that although limitation may not strictly apply, the present Appeal is liable to be rejected on account of delay, laches and acquiescence.

5.6. The Respondents have specifically denied that the Appellant continues to hold any shares in Respondent No.1 Company after 31.12.2019 or that Respondent No.2 committed any illegal or suspicious acts. It is contended that the present proceedings are not in substance an application for rectification of the Register of Members but an attempt to secure adjudication of seriously disputed questions of fact beyond the scope of Section 59 of the Companies Act, 2013. It is further submitted that the expression "without sufficient cause" occurring in Section 59 has no application to the facts of the present case.

5.7. In reply to the Appellant's case regarding resignation and continued shareholding, the Respondents have reiterated that the Appellant simultaneously resigned as Director and voluntarily transferred his entire holding of 10,000 Equity Shares in favour of Respondent No.2 with effect from 31.12.2019. It is denied that the Appellant continued as a shareholder thereafter. According to the Respondents, the present proceedings constitute a vexatious attempt to restore his status as shareholder and revive his demand of Rs.50,00,000/-.

5.8. The Respondents have further stated that the Annual Return for the Financial Year 2018-19 correctly reflected the position existing as on 31.03.2019, whereas the Annual Return for the Financial Year 2019-20 reflected the transfer of shares effected on 31.12.2019. According to the Respondents, the Appellant himself transferred the shares in 2019 and, despite remaining silent for nearly three years and never asserting any shareholder's rights or enquiring into the affairs of the Company, has instituted the present proceedings only with the object of regaining his status as shareholder.

5.9. The Respondents have stated that the allegations concerning the exchange of emails have been selectively narrated by the Appellant. While admitting that email correspondence took place, they have specifically denied that the Share Transfer Form was forged or fabricated and have reiterated that the transfer deed was duly executed by the Appellant, witnessed, verified and lawfully acted upon by the Company.

5.10. The Respondents have denied the allegations relating to denial of inspection of statutory records and have contended that the Appellant had ceased to be a shareholder upon transfer of his shares and, therefore, was not entitled to inspect the statutory records of the Company in the capacity of a member. The Respondents have further denied the allegations relating to irregularities in the Register of Members, Annual Returns, Board Meetings and statutory compliances, and have asserted that the transfer of shares was duly effected in accordance with law after execution of Form SH-4 and completion of all necessary formalities. They have accordingly prayed for dismissal of the present Company Appeal with costs.

6. In compliance with the order dated 12.10.2023, the Appellant filed a further Additional Affidavit placing on record his observations on the documents furnished by Respondent Nos. 1 to 5 pursuant to the directions of this Tribunal: -

6.1. The Appellant has stated that, having served as Director of Respondent No. 1 Company from 02.08.2014 till 31.12.2019 and thereafter as its employee till August, 2021, he is fully conversant with the affairs of the Company and the documents produced by the Respondents. It is further stated that the affidavit has been filed to demonstrate the inconsistencies and irregularities noticed in the Register of Members, Register of Share Transfers, Share Transfer Deed and the Minutes of the Board Meetings dated 20.12.2019 and 31.12.2019 produced by the Respondents.

6.2. The Appellant has submitted that despite the earlier order dated 26.06.2023 permitting inspection of the statutory records, during the inspection conducted on 21.08.2023 only the Register of Members was produced, whereas the Register of Share Transfers and the original Share Transfer Deeds were not made available. It is further alleged that the Register of Members shown during inspection was different from the copy subsequently furnished pursuant to the order dated 12.10.2023 and that both the Register of Members and the Register of Share Transfers appear to have been hastily prepared only after the directions issued by this Tribunal, which, according to the Appellant, is evident from their format, handwriting, scripting and other physical features.

6.3. The Appellant has further contended that the statutory records produced by the Respondents are inconsistent with the Annual Returns filed before the Registrar of

Companies. It is alleged that the records indicate issuance of share certificates to the subscribers on the very date of incorporation, even before deposit of subscription money and before opening of the Company's bank account. It is further contended that the share certificates were issued in multiple denominations despite there being only two subscribers to the Memorandum of Association. According to the Appellant, the alleged share transfers shown as having taken place on 02.08.2014, 04.12.2014, and during the Financial Years 2015-16 and 2016-17 do not find place either in the Annual Returns or in Form MGT-7 filed before the Registrar of Companies, thereby rendering the entries in the Register of Members and Register of Share Transfers inconsistent with the statutory filings.

6.4. The Appellant has also questioned the authenticity of the Share Transfer Deed relied upon by the Respondents. It is stated that despite the specific directions of this Tribunal, all the Share Transfer Deeds were not produced and only one alleged transfer deed pertaining to the Appellant was furnished. According to the Appellant, the alleged transfer deed is incomplete as the share certificates referred to therein were not enclosed. It is further alleged that the folio particulars mentioned in the alleged transfer deed do not tally with the folio numbers reflected in the Annual Return for the Financial Year 2018-19, that the instrument originally bore uncancelled court-fee stamps instead of share transfer stamps, and that the Respondents subsequently attempted to rectify the deficiency by affixing share transfer stamps on the reverse of the document. The Appellant has reiterated that he never executed the said transfer deed, that the signatures appearing thereon are forged, that no proof of lodgement of the transfer deed with the Company has been produced and that the statutory registers themselves are not authenticated in accordance with Rule 8 of the Companies (Management and Administration) Rules, 2014.

6.5. The Appellant has further raised objections with regard to the Minutes of the Board Meetings dated 20.12.2019 and 31.12.2019. It is submitted that although his resignation letter dated 07.12.2019 stipulated that it would take effect only from 31.12.2019, no notice, agenda or notes to agenda of the said Board Meetings were ever served upon him despite his continuing as a Director till that date. It is further contended that the draft minutes of the said meetings were never circulated to him in accordance with the applicable Secretarial Standards and statutory requirements. The Appellant has also questioned the inclusion of the alleged share transfer as an agenda item for the meeting dated 31.12.2019 when, according to the Respondents themselves, the alleged transfer deed was executed on the very same date.

6.6. Lastly, the Appellant has reiterated that after his resignation as Director he continued to be associated with the Company as an employee till August, 2021 and thereafter only as a shareholder. It is stated that he became aware of the alleged transfer only after being informed by Respondent No. 6 in September, 2022 and upon receipt of the email dated 03.10.2022 enclosing the alleged transfer deed. The Appellant has asserted that there was never any communication or agreement between him and Respondent No. 2 regarding transfer of his shares and that no consideration was ever paid for the alleged transfer.

7. The Appellant has thereafter filed an **Affidavit-in-Rejoinder** on 20.03.2024 through e-mode, controverting the stand taken by Respondent Nos. 1 to 5 in their reply and reiterating that the present Appeal is maintainable: -

7.1. The Appellant has reiterated that he was appointed as a Director of Respondent No. 1 Company on 02.08.2014, continued till 31.12.2019, thereafter remained employed with the Company till August, 2021, and has throughout continued to be the holder of 10,000 Equity Shares constituting 20% of the paid-up share capital of the Company. It is asserted that he never executed any Share Transfer Deed nor transferred his shares in favour of Respondent No. 2 and that the alleged transfer deed is forged. According to the Appellant, he became aware of the alleged transfer only after Respondent No. 6 informed him of the suspicious acts of Respondent No. 2 in September, 2022, whereafter he sought the financial statements of the Company and was, for the first time, furnished with the alleged Share Transfer Deed through email dated 03.10.2022. The Appellant has further reiterated that the alleged transfer deed bears uncancelled court-fee stamps instead of share transfer stamps, no consideration was ever paid, and no communication regarding transfer of shares ever took place between the parties.

7.2. The Appellant has further relied upon the inspection carried out pursuant to the order dated 26.06.2023 and has reiterated that, during inspection on 21.08.2023, only the Register of Members was produced whereas the Register of Share Transfers and the original Share Transfer Deeds were withheld. It is contended that the Register of Members subsequently supplied pursuant to the order dated 12.10.2023 materially differed from the register shown during inspection and appeared to have been freshly prepared. The Appellant has also reiterated that despite the specific directions of this Tribunal, the Respondents failed to produce all the Share Transfer Deeds, that the alleged transfer deed was incomplete as the corresponding share certificates were not enclosed, that the Respondents subsequently attempted to rectify the deficiency relating to stamping by affixing share transfer stamps on the reverse of the alleged transfer deed, and that the folio particulars mentioned therein did not correspond with the Company's Annual Return for the Financial Year 2018-19.

7.3. The Appellant has further questioned the validity of the Board Meetings stated to have been held on 20.12.2019 and 31.12.2019. It is contended that although his resignation was to become effective only on 31.12.2019, no notice, agenda or notes to agenda of the said meetings were ever served upon him and the draft minutes were never circulated to him in accordance with Secretarial Standard-1 read with Section 118(10) of the Companies Act, 2013. It is further contended that if the alleged Share Transfer Deed itself was executed on 31.12.2019, the proposal relating thereto could not have formed part of the agenda of the Board Meeting held on the same day after compliance with the statutory notice requirements.

7.4. Replying to the preliminary objections, the Appellant has denied that the Appeal is barred by limitation or suffers from delay and laches, contending that the Appeal was filed on 22.12.2022 immediately after knowledge of the alleged fraudulent transfer. The Appellant has also disputed the allegation that he had ceased exercising shareholder rights, asserting that he remained associated with the Company as an employee till August, 2021 and sought the financial statements for the Financial Year 2021-22 only after receiving information regarding the alleged fraudulent acts. The Appellant has further denied the allegation that the present proceedings have been instituted for extorting money from the Company and has asserted that it was Respondent No. 2 who had proposed that the Appellant transfer his shareholding after independently evaluating its valuation.

7.5. On the issue of jurisdiction, the Appellant has disputed the reliance placed by the Respondents on *Ammonia Supplies*(supra) and has contended that, in view of Section 430 of the Companies Act, 2013, the jurisdiction of the Civil Court stands expressly barred in matters falling within Section 59 of the Act. In support thereof, reliance has been placed upon the decision of the Hon'ble NCLAT, Chennai in *Gireesh Sanghi (HUF) v. Sanghi Industries Ltd. & Ors.*, Company Appeal (AT) (CH) No. 95 of 2023, and the judgment of the Hon'ble Supreme Court in *Shashi Prakash Khemka v. NEPC Micon & Ors.*, (2019) 18 SCC 569, to contend that this Tribunal is competent to adjudicate disputes concerning rectification of the Register of Members notwithstanding the existence of disputed questions of fact.

7.6. The Appellant has lastly reiterated that the alleged Share Transfer Deed is forged, that the Respondents have failed to produce any valid contemporaneous records supporting the alleged transfer, that the statutory records and Annual Returns disclose material inconsistencies, and that the omission of the Appellant's name from the Register of Members is without sufficient cause, warranting rectification under Section 59 of the Companies Act, 2013.

8. Respondent No. 1 has thereafter filed a **Sur-Rejoinder** Affidavit on 25.10.2024 through e-mode, reiterating the averments made in the Affidavit-in-Reply and controverting the assertions made in the Rejoinder: -

8.1. At the outset, Respondent No. 1 has elaborated the shareholding history of the Company from its incorporation and stated that the Appellant was allotted an aggregate of 10,000 equity shares upon his induction as Director on 02.08.2014. It is further submitted that the Appellant voluntarily transferred the said shares to Respondent No. 2 on 31.12.2019 for a total consideration of Rs. 1,00,000/-, paid in five instalments of Rs. 20,000/- each, whereafter the original share certificates were handed over and the transfer was approved by the Board of Directors in its meeting dated 31.12.2019. In support thereof, reliance has been placed upon the Register of Members, Share

Transfer Form (Form SH-4), Register of Transfers, share certificates and the Minutes of the Board Meeting dated 31.12.2019 annexed to the Sur-Rejoinder.

8.2. Respondent No. 1 has reiterated its preliminary objection that the present proceedings are not maintainable under Section 59 of the Companies Act, 2013 as the Appellant is, in substance, seeking adjudication upon the validity of the alleged transfer of shares by raising allegations of fraud, forgery and fabrication, which involve disputed questions of fact requiring oral and documentary evidence. It is contended that the jurisdiction under Section 59 is confined to rectification of the Register of Members and cannot be invoked for adjudicating disputed title over shares. In support thereof, Respondent No. 1 has relied upon *Ammonia Supplies* (supra), *IFB Agro*(supra), *Standard Chartered Bank v. Andhra Bank Financial Services Ltd.*, *Jai Mahal Hotels (P.) Ltd. v. Raj Kumar Devraj*, and *Cherukuri Ramakrishna v. Sandhya Hotels Pvt. Ltd.*

8.3. It is further submitted that the discrepancies pointed out by the Appellant in the Annual Returns and Form MGT-7 for the Financial Years 2015-16 and 2016-17 are attributable to inadvertent clerical errors in the statutory filings and do not affect the actual shareholding of the Company. Respondent No. 1 has stated that the Company has already initiated the process for rectification of Form MGT-7 before the Registrar of Companies. It is further pointed out that the Form MGT-7 for the Financial Year 2015-16 bears the Appellant's own signature and, therefore, he is estopped from contending that the Company deliberately reflected an incorrect shareholding pattern.

8.4. Respondent No. 1 has further reiterated that the Appellant continued as an employee of the Company till August, 2021 after his resignation as Director and transfer of shares and, during the said period, never claimed any shareholder rights, never sought inspection of the statutory registers and never questioned the transfer of his shares. It is also contended that the Appellant did not disclose the alleged shareholding in his Income Tax Returns for the Financial Years 2019-20 and 2020-21, thereby demonstrating that he himself treated the shares as having been transferred.

8.5. Respondent No. 1 has denied the allegations that the Register of Members, Register of Share Transfers and other statutory records were fabricated or freshly prepared pursuant to the orders passed by this Tribunal. It is submitted that the Register of Members shown to the Appellant during the inspection conducted on 21.08.2023 is the very same register which was subsequently produced before this Tribunal pursuant to the order dated 12.10.2023. It is further contended that the statutory registers were maintained in the ordinary course of business and that no adverse inference can be drawn merely because the Appellant disputes their contents.

8.6. Respondent No. 1 has specifically dealt with the Appellant's objections regarding the alleged Share Transfer Form. It is submitted that the transfer deed was voluntarily executed by the Appellant; the share transfer stamps had been affixed on the reverse of the instrument and duly cancelled before lodgement of the transfer; the transfer deed was accompanied by the original share certificates at the time of lodgement; and the Appellant has not instituted any independent proceedings challenging the alleged forged signatures appearing on the transfer deed. It is further submitted that the Appellant deliberately retained no copy of the executed transfer deed with the intention of disputing the transaction at a later stage.

8.7. Respondent No. 1 has also replied to the Appellant's challenge to the Board Meetings dated 20.12.2019 and 31.12.2019. It is contended that the Appellant had already tendered his resignation and had consciously disengaged himself from the affairs of the Company. It is further submitted that any agenda not specifically mentioned in the notice could validly be taken up with the consent of the Directors present at the meeting and that the challenge founded upon Secretarial Standard-1 and Section 118(10) of the Companies Act, 2013 is misconceived. According to Respondent No. 1, the Minutes of the Board Meeting approving the transfer have never been challenged and continue to remain valid.

8.8. Respondent No. 1 has further denied the Appellant's allegation that no consideration was paid for the transfer of shares. It is reiterated that the entire consideration of Rs. 1,00,000/- was paid in cash at the Appellant's own request and that the subsequent demand made by the Appellant for Rs. 50,00,000/- towards the already transferred shares demonstrates the mala fide nature of the present proceedings. In support thereof, Respondent No. 1 has relied upon the email correspondence exchanged between the parties.

8.9. Respondent No. 1 has thereafter furnished a paragraph-wise response to the Rejoinder and has denied the allegations regarding fabrication of statutory records, manipulation of the Register of Members, invalidity of the Share Transfer Form, non-production of documents during inspection, discrepancies in folio numbers, absence of original share certificates, non-payment of consideration, violation of Secretarial Standards and suppression of material facts. It is reiterated that the Appellant voluntarily transferred his 10,000 equity shares on 31.12.2019, ceased to be a member of the Company thereafter, and that no case is made out for rectification of the Register of Members under Section 59 of the Companies Act, 2013.

9. The Appellant has thereafter filed a **Rebuttal Affidavit to the Sur-Rejoinder** on 05.12.2024 through e-mode, denying the additional averments made by Respondent No. 1 and reiterating that the Respondents have deliberately misrepresented the facts and the settled position of law: -

9.1. The Appellant has stated that, having served as Director of Respondent No. 1 Company from 02.08.2014 till 31.12.2019 and thereafter as its employee till August, 2021, he is fully conversant with the affairs of the Company and has denied all the averments made in the Sur-Rejoinder except those specifically admitted. It is further alleged that the Sur-Rejoinder has been filed only to delay the adjudication of the present Appeal and to justify the inconsistencies already pointed out by the Appellant in the Annual Returns vis-à-vis the Register of Members and Register of Share Transfers. According to the Appellant, the Respondents have a practice of unilaterally giving effect to share transfers and have attempted to rectify the Annual Returns before the Registrar of Companies after the discrepancies were brought before this Tribunal.

9.2. The Appellant has submitted that the Respondents have misled this Tribunal by describing the shares as having been subscribed by the Appellant, whereas, according to him, the shares were transferred in his favour by the existing shareholders. It is further contended that no share certificate was ever issued or handed over to him, nor was any share certificate produced during the inspection, enclosed with the alleged Share Transfer Deed furnished by email dated 03.10.2022, or supplied pursuant to the order dated 12.10.2023. The Appellant has relied upon his Bank Statement to contend that no consideration was ever paid for the alleged transfer of shares. It is also submitted that there was never any mutual understanding amongst the Directors requiring an outgoing Director to transfer his shareholding and that neither the Companies Act, 2013 nor the Articles of Association contemplate such compulsory transfer upon cessation of directorship.

9.3. The Appellant has further reiterated that the alleged Share Transfer Deed was never executed by him, that the signatures appearing thereon are forged and that no discussion regarding consideration ever took place between the parties. It is stated that Respondent No. 6 informed him during the last week of September, 2022 regarding the suspicious acts of Respondent No. 2 after resigning from the Board on 16.08.2022, whereupon the Appellant addressed an email dated 01.10.2022 seeking clarification and, in response, was supplied with the alleged Share Transfer Deed. According to the Appellant, the alleged transfer is the result of a fraudulent act committed by Respondent No. 2 in connivance with Respondent Nos. 3 and 4. It is further alleged that although Respondent No. 4 claims to have verified the Appellant's signatures from the Company's records, no specimen signature register has ever been produced despite the same being a mandatory record for a private company. The Appellant has also asserted that the Minutes of the Board Meeting dated 31.12.2019 were produced only pursuant to the directions of this Tribunal and that no notice, agenda, notes to agenda or draft minutes were ever circulated to him.

9.4. On the issue of jurisdiction, the Appellant has disputed the objection raised by Respondent No. 1 and has relied upon the judgment of the Hon'ble Supreme Court in *Shashi Prakash Khemka (Dead) through LRs. & Anr. v. NEPC Micon Ltd. & Ors.* to contend that, in view of Section 430 of the Companies Act, 2013, the jurisdiction of the Civil Court is barred and this Tribunal is competent to determine not only the rectification of the Register of Members but also the legality of the impugned transfer of shares. Reliance has also been placed upon Rule 70(5)(a) and Rule 70(5)(b) of the National Company Law Tribunal Rules, 2016 to contend that this Tribunal has jurisdiction to decide all incidental questions necessary for deciding an application for rectification under Section 59 of the Companies Act, 2013.

9.5. The Appellant has further referred to the Additional Affidavit e-filed on 05.12.2023 vide Diary No. 2401105020092022/9, wherein, according to him, several inconsistencies in the Register of Members and Register of Share Transfers vis-à-vis the Annual Returns filed with the Registrar of Companies have been specifically pointed out. The Appellant has denied the allegation that the present proceedings are intended to extort money from the Respondents and has asserted that, if the alleged email demanding Rs. 50,00,000/- had in fact constituted an act of extortion, the Respondents would have immediately replied to the same, whereas no such response was ever issued.

9.6. The Appellant has further submitted that the reference made by Respondent No. 1 to Form DIR-12 is misconceived, as the said form merely records cessation of directorship and neither requires nor permits disclosure regarding continuation of shareholding. It is further contended that the Board Resolution dated 23.01.2023 authorising the filing of the Reply is an afterthought, having not formed part of the original Affidavit-in-Reply. The Appellant has reiterated that he continues to be the holder of 10,000 Equity Shares of Rs. 10/- each constituting 20% of the paid-up share capital of the Company and has never transferred the said shares.

9.7. The Appellant has also dealt with the inspection directed by this Tribunal pursuant to the order dated 26.06.2023. It is submitted that immediately after the said order, an email dated 05.07.2023 was addressed seeking inspection of the Register of Members, Register of Share Transfers and original Share Transfer Forms. According to the Appellant, Respondent No. 2 fixed the inspection only on 21.08.2023 between 4:00 p.m. and 6:00 p.m., immediately before the next date of hearing, and declined the Appellant's request for inspection between 14.08.2023 and 18.08.2023 through emails dated 13.08.2023 and 14.08.2023. It is further stated that during the inspection only the Register of Members was produced and neither the Register of Share Transfers nor the original Share Transfer Deeds were made available. The Appellant has also referred to the Additional Affidavit e-filed on 05.12.2023 to contend that the Register of Members shown during the physical inspection differed from the copy subsequently supplied pursuant to the order dated 12.10.2023 and that both registers appear to have been prepared only after the orders passed by this Tribunal.

9.8. The Appellant has further reiterated that even after resigning from the Board, he continued to serve as an employee of the Company till August, 2021 and remained involved in the turnkey projects and financial discussions relating to the Company's ongoing and proposed projects. It is further contended that the fraudulent nature of the alleged transfer became evident upon receipt of the email dated 03.10.2022 enclosing the alleged Share Transfer Deed, which, according to the Appellant, bore an uncancelled court-fee stamp instead of the prescribed share transfer stamp. The Appellant has asserted that no communication exists evidencing lodgement of the alleged transfer deed, raising of objections by the Company regarding defective stamping, or removal of any such defect, and has alleged that the share transfer stamps were affixed only after the issue was raised in the present proceedings.

9.9. Lastly, the Appellant has reiterated that despite his resignation becoming effective only on 31.12.2019, the draft Minutes of the Board Meetings were never circulated to him within the period prescribed under Secretarial Standard-1 read with Section 118(10) of the Companies Act, 2013. It is further contended that the alleged transfer deed itself is shown to have been executed on 31.12.2019 and, therefore, the agenda concerning such transfer could not have validly formed part of the Board Meeting held on the same day after complying with the statutory notice requirements. The Appellant has asserted that he has been illegally expelled as a member of the Company merely because he resigned as Director, that the alleged Share Transfer Form is incomplete, fabricated and forged, and has accordingly prayed that the present Appeal be allowed together with the consequential reliefs and damages sought therein.

10. Respondent No. 1 has thereafter filed an **Additional Affidavit** pursuant to the order dated 06.11.2025 passed by this Tribunal. It is submitted that the Affidavit has been filed solely for the purpose of complying with the directions contained in the said order, whereby Respondent No. 1 was directed to file Xerox true copies of the original share certificates which had been produced before the Tribunal during the hearing held on 06.11.2025.

10.1. It is further submitted that, in compliance with the aforesaid directions, Respondent No. 1 has placed on record the true copies of the three original share certificates, which were produced before this Tribunal in original at the hearing held on 06.11.2025. The copies of the said share certificates have been collectively annexed as Annexure-R2 (Colly.).

10.2. Respondent No. 1 has further referred to the earlier order dated 12.10.2023, whereby this Tribunal had directed Respondent No. 1 to place on record the Register of Members, Register of Share Transfers till date, Share Transfer Deeds and the Minutes of the Board Meetings dated 20.12.2019 and 31.12.2019, while simultaneously granting liberty to the Appellant to file his observations by way of an Additional Affidavit. It is submitted that a copy of the said order dated 12.10.2023 has been annexed as Annexure-R3. Respondent No. 1 has further stated that, in compliance with the said order, it had already filed an Additional Affidavit dated 23.10.2023 in IA No. 53 of 2023 placing the requisite documents on record, against which the Appellant had filed his Additional Affidavit dated 05.12.2023 containing his observations.

10.3. Lastly, Respondent No. 1 has prayed that the additional documents filed along with the present Affidavit be taken on record and appropriate orders be passed by this Tribunal. It has also reserved liberty to add, alter, amend or delete any of the averments made in the Affidavit, if so required.

11. The Appellant has thereafter filed a **<u>Counter Affidavit</u>** in response to the Additional Affidavit filed by Respondent No. 1 on 19.02.2026, placing on record the alleged share certificates for the first time: -

11.1. The Appellant has stated that the Affidavit has been filed to place on record his objections and prima facie observations regarding the alleged share certificates produced by Respondent No. 1 pursuant to the directions of this Tribunal. It is contended that the alleged share certificates were produced for the first time only on 06.11.2025, after the completion of the pleadings, namely the Affidavit-in-Reply, Sur-Rejoinder and the earlier Additional Affidavit, thereby casting serious doubt on their authenticity. The Appellant has further asserted that the alleged share certificates had never been issued or delivered to him, nor were they furnished along with the alleged Share Transfer Deed despite repeated requests or pursuant to the orders dated 26.06.2023 and 12.10.2023 passed by this Tribunal.

11.2. The Appellant has further enumerated the various occasions on which, according to him, the Respondents could have produced the alleged share certificates but failed to do so. It is submitted that, prior to filing the present Appeal, the Appellant had addressed an email dated 01.10.2022 requesting production of the original share certificates; however, Respondent No. 2, by email dated 03.10.2022, furnished only the alleged Share Transfer Deed without enclosing any share certificate. It is further pointed out that even in the Affidavit-in-Reply dated 16.08.2023, Respondent No. 1 relied only upon the alleged Share

Transfer Deed without producing the corresponding share certificates. The Appellant has also referred to the inspection conducted on 21.08.2023 pursuant to the order dated 26.06.2023, wherein, according to him, only the Register of Members was produced and neither the Share Transfer Register, the original Share Transfer Deeds nor the alleged share certificates were made available for inspection. It is further contended that even while filing the Additional Affidavit on 25.10.2023 pursuant to the order dated 12.10.2023, Respondent No. 1 did not annex the alleged share certificates along with the Share Transfer Deed. According to the Appellant, the Respondents also omitted to produce the said share certificates along with the Sur-Rejoinder, thereby strengthening the Appellant's contention that the share certificates were not in existence at the relevant point of time and were prepared only after the directions issued by this Tribunal.

11.3. The Appellant has thereafter recorded his observations on the alleged share certificates. It is contended that the face of the alleged share certificates itself stipulates that no transfer of the shares comprised therein can be registered unless accompanied by the relevant share certificate; however, on every occasion when the Respondents furnished or relied upon the alleged Share Transfer Deed, the same was never accompanied by the corresponding share certificates. It is further submitted that the alleged Share Transfer Deed bears Transfer No. 11, whereas the Register of Members and Register of Share Transfers subsequently produced by the Respondents do not reflect the impugned transfer under the said transfer number. According to the Appellant, the Share Transfer Register is not only inconsistent with the alleged Share Transfer Deed but also contradicts the particulars recorded in the Annual Returns filed by the Company.

11.4. The Appellant has further questioned the genuineness of the alleged share certificates by contending that the share certificates are shown to have been issued to the subscribers of the Memorandum of Association on 16.12.2013, i.e., the very date of incorporation of the Company, even before the opening of the Company's bank account and before the subscribers had deposited their subscription money. It is further pointed out that the Certificate of Incorporation itself was issued by the Registrar of Companies, Gujarat on 16.12.2013 at 11:31:07 A.M. According to the Appellant, the issuance of split share certificates to the subscribers on the very date of incorporation indicates that the Respondents had anticipated future transfers on the very first day of incorporation and that the statutory records have been freshly prepared. The Appellant has also disputed the Respondents' statement made in the Sur-Rejoinder that the shares were allotted to him, contending that he became a shareholder only by transfer from an existing shareholder and not by allotment.

11.5. The Appellant has further submitted that the Respondents have shown a share transfer on 04.12.2014, although no Board Meeting was held on that date, which, according to him, is evident from the Annual Return for the Financial Year 2014-15. It is further contended that Share Certificate No. 24, relied upon by the Respondents, bears the name of Respondent No. 6 on its face, whereas, according to the Register of Members and Register of Share Transfers, Respondent No. 6 had already transferred Share Certificate No. 13 to Mr. Alpesh Shah, who thereafter surrendered the same and applied for its split and transfer in favour of the Appellant, resulting in issuance of Share Certificate Nos. 24 and 25. According to the Appellant, in such circumstances, Share Certificate No. 24 could have been issued either in the name of Mr. Alpesh Shah or in the name of the Appellant, but never in the name of Respondent No. 6. It is also contended that the folio number mentioned in the alleged Share Transfer Deed does not correspond with the Appellant's folio number reflected in the Company's Annual Return for the Financial Year 2018-19.

11.6. The Appellant has further alleged that there exists a continuous inconsistency between the Annual Returns filed with the Registrar of Companies and the statutory records now relied upon by the Respondents, including the Register of Members, Register of Share Transfers, alleged Share Transfer Deeds and the newly produced share certificates. It is specifically contended that the folio numbers appearing in the newly produced Register of Members do not reconcile with those reflected in Form 20B for the Financial Year 2013-14; that the Share Transfer Register records transfers on 02.08.2014 which do not find place in the Annual Return for the Financial Year 2014-15; that the Annual Return for the Financial Year 2015-16 reflects transfer of the entire shareholding back to the original subscribers without corresponding entries in the Share Transfer Register; and that the Annual Return for the Financial Year 2016-17 again reflects transfers not recorded in the statutory register. The Appellant has also reiterated that despite the order dated 12.10.2023, the Respondents have not produced all the Share Transfer Deeds pertaining to him. It is, therefore, contended that if the Annual Returns are accepted as correct, the alleged Share Transfer Deed and share certificates become untenable, whereas if the statutory registers are treated as correct, the Annual Returns filed before the Registrar of Companies stand falsified.

11.7. Lastly, the Appellant has reiterated that the alleged Share Transfer Deed was never executed by him and that his signatures thereon are forged and counterfeited by Respondent No. 2 in connivance with Respondent Nos. 3 and 4. It is contended that the Respondents have failed to produce the specimen signature register allegedly relied upon for verification of the Appellant's signatures, that there is no record showing the date of lodgement of the alleged Share Transfer Deed or proof of its submission to the Company, and that no communication exists between the Appellant and Respondent No. 2 concerning any transfer of shares. It is further asserted that no consideration, as mentioned in the alleged transfer form, was ever paid to the Appellant and, therefore, the alleged transfer is invalid.

12. The Appellant filed its Chronology of Events, Compilation of judgments and Written Submissions on 22.07.2026, 14.07.2026 and 15.04.2026 respectively through e-mode, setting out its factual and legal contentions in support of the present Appeal. Respondents have also filed their Written Submissions and Compilation of judgments on 06.02.2025 and 15.07.2026 through e-mode, reiterating their defence.

13. We have heard the counsel for the Appellant as well as the counsels for the Respondents and have perused the material available on record.

Observation and Findings of the Tribunal: -

14. The present Company Appeal has been instituted under Section 59 of the Companies Act, 2013 seeking rectification of the Register of Members of Respondent No. 1 Company by restoration of the Appellant's name as holder of 10,000 Equity Shares constituting 20% of the paid-up share capital. The principal grievance of the Appellant is that his shareholding was fraudulently transferred in favour of Respondent No. 2 without his knowledge or consent on the basis of a forged Share Transfer Deed and that the consequential deletion of his name from the Register of Members is without sufficient cause. The Respondents, on the other hand, contend that the Appellant voluntarily transferred the shares upon his resignation as Director on 31.12.2019 after receiving the agreed sale consideration and that the transfer was duly approved by the Board of Directors in accordance with law. The pleadings, therefore, disclose a dispute concerning the validity of the alleged transfer of shares and the consequential entitlement of the Appellant to seek rectification of the Register of Members under Section 59 of the Companies Act, 2013.

14.1. Learned Counsel appearing for the Appellant has vehemently contended that the alleged Share Transfer Deed dated 31.12.2019 is a fabricated document bearing forged signatures of the Appellant and that no consideration was ever paid for the alleged transfer. It is submitted that the statutory records produced by the Respondents, namely the Register of Members, Register of Share Transfers, Share Transfer Deed, Minutes of the Board Meetings and the share certificates, suffer from material inconsistencies inter se as well as with the Annual Returns filed before the Registrar of Companies. According to the Appellant, the records were not contemporaneously maintained but were subsequently prepared to justify the illegal deletion of his name from the Register of Members. It is further contended that despite repeated requests and the directions issued by this Tribunal, the Respondents failed to produce complete statutory records, original share certificates and other contemporaneous documents supporting the alleged transfer, thereby rendering the impugned transfer illegal and liable to be declared void.

14.2. Learned Counsel for the Appellant has further submitted that the Appellant continued to remain a shareholder even after resigning as Director on 31.12.2019 and became aware of the alleged transfer only upon receipt of the email dated 03.10.2022 enclosing the alleged Share Transfer Deed. It is contended that the omission of the Appellant's name from the Register of Members is "without sufficient cause" within the meaning of Section 59 of the Companies Act, 2013 and that this Tribunal possesses complete jurisdiction to determine all incidental questions relating to the validity of the alleged transfer while exercising powers under the said provision. Accordingly, it has been prayed that the Register of Members be rectified by restoring the Appellant's name and by declaring the alleged transfer in favour of Respondent No. 2 as null and void.

14.3. Per contra, learned Counsel appearing for Respondent Nos. 1 to 5 has contended that the present proceedings are thoroughly misconceived and amount to an abuse of the process of law. According to the Respondents, the Appellant voluntarily transferred his entire holding of 10,000 Equity Shares in favour of Respondent No. 2 on 31.12.2019 after receiving the agreed consideration of Rs.1,00,000/-, whereafter the original share certificates were handed over and the transfer was duly approved by the Board of Directors. It is submitted that the Appellant continued in the employment of the Company till August, 2021 without asserting any shareholder rights and has raised the present dispute only after noticing the Company's financial progress. It is further alleged that the present proceedings have been instituted with the sole object of exerting pressure upon the Company and its management.

14.4. The Respondents have further raised a preliminary objection regarding the maintainability of the present Appeal by contending that the allegations of fraud, forgery, fabrication of documents and disputed title over shares involve complex questions of fact requiring detailed evidence, which fall beyond the limited rectificatory jurisdiction of this Tribunal under Section 59 of the Companies Act, 2013. It is submitted that the transfer was effected after due compliance with the statutory requirements, that the discrepancies pointed out in certain Annual Returns are merely clerical errors already under rectification before the Registrar of Companies, and that no case is made out for interference with the Register of Members maintained by the Company.

15. In view of the pleadings and submissions advanced by the parties, the following **issues** arise for determination by this Tribunal:

(i) Whether the present Company Appeal under Section 59 of the Companies Act, 2013 is maintainable before this Tribunal in view of the preliminary objection raised by Respondent No. 1 that the dispute involves allegations of fraud and forgery?

(ii) Whether the Appellant has established that the omission of his name from the Register of Members of Respondent No. 1 Company was "without sufficient cause" within the meaning of Section 59 of the Companies Act, 2013?

(iii) Whether the alleged transfer of 10,000 Equity Shares standing in the name of the Appellant in favour of Respondent No. 2 on 31.12.2019 is valid and legally sustainable?

16. **Findings on Issue No.(i)**: <u>Whether the present Company Appeal under Section 59 of the Companies Act, 2013 is maintainable before this Tribunal in view of the preliminary objection raised by Respondent No. 1 that the dispute involves allegations of fraud and forgery</u>?

16.1. Before adverting to the merits of the controversy, it is necessary to deal with the preliminary objection raised by Respondent No. 1 regarding the maintainability of the present Company Appeal. According to the Respondents, the Appellant has alleged fraud, forgery and fabrication in relation to the Share Transfer Deed, the Register of Members, the Register of Share Transfers and other statutory records of the Company. It has been contended that adjudication of such allegations would necessarily require appreciation of disputed facts, examination of documentary evidence and recording of oral evidence, which, according to the Respondents, is beyond the limited rectificatory jurisdiction conferred upon this Tribunal under

Section 59 of the Companies Act, 2013. The Respondents have, therefore, argued that the Appellant ought to seek appropriate relief before the competent Civil Court and that the present Company Appeal is not maintainable.

16.2. The Appellant, on the other hand, has contended that the relief sought in the present Company Appeal is one of rectification of the Register of Members under Section 59 of the Companies Act, 2013 and that the questions relating to the genuineness of the alleged Share Transfer Deed and the consequential deletion of his name from the Register of Members are only incidental to the principal relief claimed. It has been argued that merely because the Respondents have disputed the allegations or have raised a defence of fraud and forgery, the jurisdiction of this Tribunal cannot be said to be ousted. According to the Appellant, Section 430 of the Companies Act, 2013 expressly bars the jurisdiction of the Civil Court in matters which the Tribunal is empowered to determine under the Act.

16.3. We have considered the rival submissions advanced on behalf of the parties. Since the objection pertains to the very jurisdiction of this Tribunal to entertain the present proceedings, it is necessary to first examine the scope and ambit of Section 59 of the Companies Act, 2013.

16.4. Section 59 of the Companies Act, 2013 provides a statutory remedy to a person aggrieved by wrongful entry, omission or retention of his name in the Register of Members of a company. The provision empowers the Tribunal to direct rectification of the Register where the name of any person has been entered or omitted without sufficient cause or where default has been made in entering the name of a member in the Register.

16.5. The scope of the rectificatory jurisdiction has been considered by the Hon'ble Supreme Court in ***Ammonia Supplies Corporation (P) Ltd. v. Modern Plastic Containers (P) Ltd.*, (1998) 7 SCC 105**, wherein the Court explained the nature of the jurisdiction exercised while directing rectification of the Register of Members. The Hon'ble Supreme Court observed that although the Tribunal exercising rectificatory jurisdiction can decide incidental questions necessary for granting the relief of rectification, proceedings for rectification are not intended to be converted into a regular civil trial for determination of independent disputes relating to title or other civil rights.

16.6. The aforesaid principle was again noticed by the Hon'ble Supreme Court in ***IFB Agro Industries Ltd. v. SICGIL India Ltd.*, Civil Appeal No. 2030 of 2019**, wherein the Court reiterated that the jurisdiction under Section 59 continues to be essentially rectificatory in nature. At the same time, the Hon'ble Supreme Court examined the issue in the context of disputes involving alleged violations of the SEBI regulatory framework and emphasised that where adjudication of the dispute substantially falls within the domain of another statutory authority, the rectificatory jurisdiction cannot be invoked to bypass the statutory mechanism.

16.7. Equally important is Section 430 of the Companies Act, 2013, which bars the jurisdiction of Civil Courts in respect of matters which the Tribunal is empowered to determine under the Act. The effect of the said provision came to be considered by the Hon'ble Supreme Court in ***Shashi Prakash Khemka v. NEPC Micon Ltd.*****, Civil Appeal Nos. 1965-1966 OF 2014**, wherein it was held that once the Act confers jurisdiction upon the Tribunal to determine a particular class of disputes, the jurisdiction of the Civil Court stands excluded. The allegations of fraud, forgery, and impersonation regarding share transfers can be adjudicated by the Tribunal and in view of provisions of section 430 of the Companies Act, 2013, the civil courts may not have exclusive jurisdiction in the matter connected with rectification of register of members.

16.8. The aforesaid decisions came up for consideration before the Hon'ble NCLAT in ***Gireesh Sanghi (HUF) v.***

***Sanghi Industries Ltd.*, Company Appeal (AT)(CH) No. 95 of 2023**. The Hon'ble Appellate Tribunal examined the scope of Section 59 after the enactment of Section 430 of the Companies Act, 2013 and observed that the mere existence of disputed questions of fact or allegations of fraud does not, by itself, oust the jurisdiction of the Tribunal. It was held that where the dispute substantially relates to rectification of the Register of Members and the questions raised are incidental to such relief, the Tribunal would be competent to adjudicate the same.

16.9. The Hon'ble Supreme Court in the case of ***Chalasani Udaya Shankar & Ors. vs. M/s Lexus Technologies Pvt. Ltd. & Ors.*, (2024 INSC 671) [Civil Appeal Nos. 5735-5736 of 2023] decided on 9 September 2024** has held that the Tribunal is the competent forum to decide the contentious facts in the rectification of register petitions. The Hon'ble Court held that while considering rectification application under section 59 of the Companies Act, 2013, the NCLT has to examine factual issues to ascertain the substance of the issue.

16.10. Having considered the statutory provisions and the legal position emerging from the aforesaid decisions, it becomes evident that the mere use of the expressions "fraud", "forgery" or "fabrication" in the pleadings is not by itself determinative of the jurisdiction of this Tribunal. What is required to be examined is the true nature of the relief sought and whether the questions raised arise directly and substantially in deciding the prayer for rectification of the Register of Members. The question whether such allegations ultimately stand substantiated is a matter touching upon the merits of the dispute and not the maintainability of the proceedings.

16.11. In the present case, the principal relief sought by the Appellant is restoration of his name in the Register of Members of Respondent No. 1 Company by invoking Section 59 of the Companies Act, 2013. The challenge to the Share Transfer Deed, the Board Resolution approving the transfer, the statutory registers maintained by the Company and the consequential deletion of the Appellant's name are all questions which arise directly in deciding whether the omission of his name from the Register of Members was "without sufficient cause". These questions are not independent causes of action but are intrinsically connected with the relief of rectification sought in the present proceedings. Accordingly, this Tribunal cannot decline to examine the dispute merely because the pleadings contain allegations of fraud or forgery. Whether the Appellant has succeeded in establishing those allegations or otherwise made out a case for rectification is a matter which falls for consideration while dealing with the remaining issues.

16.12. In view of the foregoing discussion, we are of the considered opinion that the preliminary objection raised by Respondent No. 1 cannot be accepted. The present Company Appeal, being one seeking rectification of the Register of Members under Section 59 of the Companies Act, 2013, is maintainable before this Tribunal. The issue of maintainability, however, should not be construed as an expression on the merits of the rival claims, which are required to be independently examined on the basis of the pleadings, documents and evidence placed on record. Accordingly, Issue No. (i) is answered in favour of the Appellant and against Respondent No. 1.

17. **Findings on Issue No. (ii):** Whether the Appellant has established that the omission of his name from the Register of Members of Respondent No. 1 Company was "without sufficient cause" within the meaning of Section 59 of the Companies Act, 2013?

17.1. The next question which falls for consideration is whether the Appellant has been able to establish that the omission of his name from the Register of Members of Respondent No. 1 Company was "without sufficient cause" within the meaning of Section 59 of the Companies Act, 2013. While deciding this issue, this Tribunal is required to examine the pleadings of the parties, the documents placed on record and the circumstances in which the alleged transfer of shares came to be effected.

17.2. Before examining the rival contentions, it is necessary to keep in mind the scope of the jurisdiction exercised by this Tribunal under Section 59 of the Companies Act, 2013. The Tribunal is not required to examine every irregularity committed by a company or every defect in its statutory records. The enquiry is confined to finding out whether the entry made in the Register of Members, or the omission therefrom, is without sufficient cause. Therefore, every discrepancy pointed out by the Appellant cannot automatically result in rectification unless it has a direct bearing on the validity of the transfer which forms the subject matter of the present proceedings.

17.3. Since the Appellant has approached this Tribunal seeking rectification of the Register of Members, the burden initially lies upon him to establish that his name was removed from the Register without sufficient cause. The allegations made by the Appellant are serious in nature. Fraud, forgery and fabrication have been alleged not only in respect of Form SH-4 but also against the statutory registers and the records maintained by the Company. Such allegations cannot be accepted merely because they have been made in the pleadings. They have to be supported by material which is sufficient to satisfy the Tribunal that the transaction itself is not genuine.

17.4. It is also necessary to refer to the statutory provisions governing transfer of shares, as the validity of the alleged transfer has to be examined in the light of the procedure prescribed under the Companies Act, 2013. Section 56 of the Companies Act, 2013 is reproduced hereinbelow:

> "**56. Transfer and transmission of securities.** -(1) A company shall not register a transfer of securities of the company, or the interest of a member in the company in the case of a company having no share capital, other than the transfer between persons both of whose names are entered as holders of beneficial interest in the records of a depository, unless a proper instrument of transfer, in such form as may be prescribed, duly stamped, dated and executed by or on behalf of the transferor and the transferee and specifying the name, address and occupation, if any, of the transferee has been delivered to the company by the transferor or the transferee within a period of sixty days from the date of execution, along with the certificate relating to the securities, or if no such certificate is in existence, along with the letter of allotment of securities:
>
> Provided that where the instrument of transfer has been lost or the instrument of transfer has not been delivered within the prescribed period, the company may register the transfer on such terms as to indemnity as the Board may think fit.
>
> (2) Nothing in sub-section (1) shall prejudice the power of the company to register, on receipt of an intimation of transmission of any right to securities by operation of law from any person to whom such right has been transmitted.
>
> (3) Where an application is made by the transferor alone and relates to partly paid shares, the transfer shall not be registered, unless the company gives the

notice of the application, in such manner as may be prescribed, to the transferee and the transferee gives no objection to the transfer within two weeks from the receipt of notice.

(4) Every company shall, unless prohibited by any provision of law or any order of Court, Tribunal or other authority, deliver the certificates of all securities allotted, transferred or transmitted-

(a) within a period of two months from the date of incorporation, in the case of subscribers to the memorandum;

(b) within a period of two months from the date of allotment, in the case of any allotment of any of its shares;

(c) within a period of one month from the date of receipt by the company of the instrument of transfer under sub-section (1) or, as the case may be, of the intimation of transmission under sub-section (2), in the case of a transfer or transmission of securities;

(d) within a period of six months from the date of allotment in the case of any allotment of debenture:

Provided that where the securities are dealt with in a depository, the company shall intimate the details of allotment of securities to depository immediately on allotment of such securities.

(5) The transfer of any security or other interest of a deceased person in a company made by his legal representative shall, even if the legal representative is not a holder thereof, be valid as if he had been the holder at the time of the execution of the instrument of transfer.

(6) Where any default is made in complying with the provisions of sub-sections (1) to (5), the company and every officer of the company who is in default shall be liable to a penalty of fifty thousand rupees.

(7) Without prejudice to any liability under the Depositories Act, 1996 (22 of 1996), where any depository or depository participant, with an intention

to defraud a person, has transferred shares, it shall be liable under section 447."

17.5. Before examining the documentary evidence, it would be useful to notice the sequence of events leading to the present dispute.

Date	Event
02.08.2014	The Appellant was appointed as a Director of Respondent No. 1 Company and held 10,000 Equity Shares constituting 20% of the paid-up share capital of the Company.
07.12.2019	The Appellant tendered his resignation from the office of Director, stating that the resignation would take effect from 31.12.2019.
20.12.2019	The Board of Directors accepted the resignation of the Appellant with effect from 31.12.2019.
31.12.2019	According to the Respondents, the Appellant executed Form SH-4 transferring his 10,000 Equity Shares in favour of Respondent No. 2 and the Board approved the transfer on the same day. The Appellant disputes the execution of the said documents.
August, 2021	The Appellant ceased to be in the employment of Respondent No. 1 Company.
01.10.2022	The Appellant addressed an email to the Company seeking details regarding his shareholding.
03.10.2022	Respondent No. 2 replied to the Appellant and forwarded a copy of the alleged Share Transfer Deed (Form SH-4).
04.10.2022 onwards	Email correspondence was exchanged between the parties disputing the alleged transfer of shares.
22.12.2022	The present Company Appeal under Section 59 of the Companies Act, 2013 was filed before this Tribunal.
12.10.2023	This Tribunal directed the Respondents to produce the statutory records relating to the alleged transfer and permitted

	inspection thereof by the Appellant.
28.10.2023	The Respondents filed an Additional Affidavit placing on record the Register of Members, Register of Share Transfers, Form SH-4 and the Minutes of the Board Meetings dated 20.12.2019 and 31.12.2019.
06.11.2025	Pursuant to the directions of this Tribunal, the Respondents produced the original share certificates.
Thereafter	The Appellant inspected the records and filed the Sur-Rejoinder, Rebuttal Affidavit and Counter Affidavit pointing out the alleged inconsistencies in the documents produced by the Respondents.

17.6. The above chronology shows that the dispute substantially revolves around the events of 31.12.2019. According to the Respondents, the Appellant voluntarily transferred his entire shareholding in favour of Respondent No. 2 on that date. According to the Appellant, no such transfer ever took place and the documents relied upon by the Respondents were subsequently created or manipulated. Therefore, while examining the objections raised by the Appellant, this Tribunal has to see whether the alleged irregularities relate to the transaction dated 31.12.2019 and whether they affect the validity of that transaction. If an objection relates to events which occurred subsequently or concerns a procedural lapse having no bearing on the transfer itself, the same cannot by itself justify rectification under Section 59.

17.7. The parties have also relied upon the email correspondence exchanged before the present appeal came to be filed. The Appellant relies upon the said correspondence to contend that he came to know about the alleged transfer only after receiving the email dated 03.10.2022 enclosing the alleged Share Transfer Deed. The Respondents, on the other hand, rely upon the same, particularly the communication relating to the alleged demand of Rs. 50,00,000/-, to contend that the present dispute arose only after the monetary demand made by the Appellant was not accepted. Since both sides have placed reliance upon these communications, the relevant emails are reproduced below: -

Email dated 01.10.2022 sent by the Appellant

10/3/22, 4:44 PM Yahoo Mail - Fwd: Request for the copy of Financial Statements & Board of Director's Report 2021-22

Ahmedabad - 380 004

From: Bipin Jagani [mailto:bipinjagani76@gmail.com]
Sent: 01 October 2022 11:49
To: dinesh.padsala@accuratepms.in; pinnag.rathod@accuratepms.in; dushyant.prajapati@accuratepms.in
Subject: Request for the copy of Financial Statements & Board of Director's Report 2021-22

Board of Directors,

I, Bipinkumar Babulal Jagani holder of 10,000/- Equity Shares of M/s. Accurate PMS Private Limited hereby request the Board of Directors of the Company to provide me following documents and information:

1. Copy of my Original Share Certificate, which has never been served upon to me till date

2. Copy of Company's Audited Financial Statements 2021-22

3. Copy of Minutes of all the General Meetings of the Company held/ conducted till date

4. Proof of service of notice calling all the General Meetings, including that of EGM, if called up by the Board at any point of time, as i have not received any Notice calling AGM/ EGM since inception

5. Register of Member of the Company, so that i can able to verify my details entered upon, as i am not in receipt of any communication of the General Meeting from the Company till date.

Request you to kindly provide the same at the earliest and latest by October 7, 2022, failing which i shall be constrained to have its physical inspection at the Company's registered office.

Thank you.

Bipin Jagani

Reply dated 03.10.2022 sent on behalf of Respondent No. 2

10/3/22, 4:44 PM Yahoo Mail - Fwd: Request for the copy of Financial Statements & Board of Director's Report 2021-22

Fwd: Request for the copy of Financial Statements & Board of Director's Report 2021-22

From: Bipin Jagani (bipinjagani76@gmail.com)

To: vinitnagarandco@gmail.com

Cc: ppamipara@gmail.com

Date: Monday, 3 October, 2022 at 04:39 pm IST

---------- Forwarded message ---------
From: **DINESH PADSALA - ACCURATE PMS** <dinesh.padsala@accuratepms.in>
Date: Mon, Oct 3, 2022 at 4:27 PM
Subject: RE: Request for the copy of Financial Statements & Board of Director's Report 2021-22
To: Bipin Jagani <bipinjagani76@gmail.com>
Cc: Pinnag Rathod - Accurate PMS <pinnag.rathod@accuratepms.in>, dushyant.prajapati <dushyant.prajapati@accuratepms.in>, DINESH PADSALA - ACCURATE PMS <dinesh.padsala@accuratepms.in>

Dear Bipin Jagani,

You and all the directors (existing or not) of the company, are aware that you have resigned w.e.f 31/12/2019 and transferred all the shares to Mr. Dinesh Padsala on 31/12/2019

You have transferred your share holding to Mr. Dinesh Padsala on 31/12/2019 in presence of Mr. Pinnag Bipinbhai Rathode also checked by Mr.Pinnag Bipinbhai Rathode (Director) and signature tallied by Mr. Dushyant Jashvantbhai Prajapati (Director).

Company is not authorized to provide you all the details as demanded as you are not existing shareholder and director of the company. You can take search on mca.gov.in for all the documents and details which company have filed in ROC.

Please find attached SH 4 (share transfer form) and other resignation documents as attached for your records.

As you aware that company's brand and reputation is important and it takes much time to be a brand in the market. So, we are requesting to check the documents as attached.

Please find attached SH -4, Resignation Letter And DIR 12 for your reference.

Thanks and Regards,

Dinesh Padsala

9825600507

Accurate PMS Private Limited.

H 235 - 238, Sumel Business Park - 6,

Dudheshwar Road, Shahibaug,

Email correspondence dated 04.10.2022

11/9/22, 3:29 PM Yahoo Mail - Fwd: RE: Request for the copy of Financial Statements & Board of Director's Report 2021-22

From: Bipin Jagani [mailto:bipinjagani76@gmail.com]
Sent: 04 October 2022 12:08
To: DINESH PADSALA - ACCURATE PMS
Cc: Pinnag Rathod - Accurate PMS; dushyant.prajapati
Subject: Re: Request for the copy of Financial Statements & Board of Director's Report 2021-22

Dear Dineshbhai,

I am fully aware of my resignation from the Board and reasons thereof but i am highly surprised to know about the alleged transfer of my shares and therefore the matter will shortly be referred to the office of Registrar of Companies, Gujarat at Ahmedabad.

Your claim as a transferee of my shareholding is highly objectionable and hence the detailed probe is required in this regard.

Further, the alleged share transfer form prima facie indicates that my signature have been fraudulently marked as no transfer form has ever been executed/ signed by me at any point of time and i am thankful to you for furnishing me the transfer form so through which the act of forgery is identified. I require the true copy of alleged transfer form for the forensic signature verification.

Your alleged claim about the verification of my signature been done by Mr. Dushyantbhai Prajapati is another dubious thing i strongly object and oppose at this moment, and in this regard, please provide me the relevant extract of register of members of the company from where Mr. Dushyantbhai has tallied my signature.

I am concerned about brand and therefore, am equally concerned about my stake and investment in this esteemed and branded organization.

The matter requires your prompt response. Pl arrange to furnish me the certified copy of alleged transfer form for my further course of action in this regard.

Best Regards,

Fwd: RE: Request for the copy of Financial Statements & Board of Director's Report 2021-22

From: bipinjagani76@gmail.com

To: vinitnagarandco@gmail.com

Date: Tuesday, 4 October, 2022 at 03:12 pm IST

Sent from myMail for iOS

-------- Forwarded message --------
From: DINESH PADSALA - ACCURATE PMS <dinesh.padsala@accuratepms.in>
To: Bipin Jagani <bipinjagani76@gmail.com>
Cc: Pinnag Rathod - Accurate PMS <pinnag.rathod@accuratepms.in>, dushyant.prajapati <dushyant.prajapati@accuratepms.in>
Date: Tuesday, 4 October 2022 at 3:09 PM +0530
Subject: RE: Request for the copy of Financial Statements & Board of Director's Report 2021-22

Dear BJ,

Before using any unauthentic world u must cross check all documents which is sign by u and all other directors and Shareholder of Accurate PMS Pvt. Ltd. and also available with ROC Ahmedabad.

So once again I would like to request that please be present at Office and cross verify all documents and u can also collect any documents true copy for forensic verification.

If u r not agree on above statement than u can free to refer this case to anywhere and no need to mail or intimation for this case to Accurate PMS Pvt Ltd.

Thanks and Regards,

Dinesh Padsala

9825600507

Accurate PMS Private Limited.

H 235 - 238, Sumel Business Park - 6,

Dudheshwar Road, Shahibaug,

Ahmedabad - 380 004

Email relied upon by the Respondents regarding the alleged demand of Rs. 50,00,000/-

From: Bipin Jagani [mailto:bipinjagani76@gmail.com]
Sent: 31 October 2022 10:55
To: DINESH PADSALA - ACCURATE PMS; Pinnag Rathod - Accurate PMS; dushyant.prajapati
Subject: Re: shareholding

Dear Dineshbhai,

Re. Concern pertaining to my present shareholding in M/s. Accurate PMS Private Limited

Based out of our last meeting held on __October, 2022 and after going through the previous year's audited financials of the Company i.e. 2020-21 available on the MCA registry, I have worked on the calculations together with my Chartered Accountants and accordingly, considering my present stake of 20% in terms of Shareholding of M/s. Accurate PMS Private Limited, I can unconditionally take an exit at INR. 50 Lac (INR 50,00,000/-) and on receipt of the said consideration, I will transfer my entire present shareholding in the Company.

I will appreciate it if you may kindly consider the same and revert back, so that necessary discussion can further be made possible before Diwali.

17.8. This Tribunal does not propose to decide the rights of the parties merely on the basis of the above correspondence. However, the emails are relevant to understand how the dispute developed between the parties and the circumstances in which the present proceedings came to be filed. The correspondence will, therefore, be considered only as one of the surrounding circumstances while appreciating the evidence placed on record.

17.9. The Appellant has argued that the documents produced by the Respondents do not inspire confidence and that the alleged transfer dated 31.12.2019 is nothing but a paper transaction created subsequently to deprive him of his shareholding. According to the Appellant, the inconsistencies noticed in the statutory records, Annual Returns, Board

Minutes, Register of Members, Register of Share Transfers, Form SH-4 and the share certificates are sufficient to conclude that the transfer never took place. The Respondents have disputed the said allegations and have submitted that the transfer was effected after following the prescribed procedure and that the discrepancies pointed out by the Appellant are either clerical in nature or relate to subsequent statutory compliances which do not affect the validity of the transfer.

17.10. The Tribunal has carefully considered the rival submissions. In the opinion of this Tribunal, every discrepancy pointed out by the Appellant cannot be placed on the same footing. Some of the objections relate directly to the alleged transfer dated 31.12.2019, whereas some relate to statutory filings made subsequently before the Registrar of Companies. Certain objections also arise out of the production of documents during the pendency of these proceedings. Therefore, before examining the individual objections, it is necessary to determine whether the particular irregularity relied upon has any direct bearing on the transaction dated 31.12.2019. Unless such nexus is established, the irregularity by itself cannot be treated as a sufficient ground to invoke the rectificatory jurisdiction under Section 59 of the Companies Act, 2013.

17.11. The record further shows that during the initial stage of the proceedings, the Appellant repeatedly complained that the Respondents were withholding the statutory records relating to the alleged transfer. Taking note of the said grievance, this Tribunal passed a series of directions requiring the Respondents to produce the relevant documents and also permitted the Appellant to inspect the original records maintained by the Company. Pursuant to the said directions, the Respondents produced the Register of Members, Register of Share Transfers, Form SH-4, Minutes of the Board Meetings dated 20.12.2019 and 31.12.2019 and, subsequently, the original share certificates. The Appellant was thereafter granted liberty to inspect the records and to file additional pleadings placing his observations on record.

17.12. Once the documents were produced and inspection was carried out, the controversy before this Tribunal was no longer whether the records existed or not. The real question became whether the documents produced by the Respondents could safely be relied upon and whether the inconsistencies pointed out by the Appellant were sufficient to discard those documents altogether. It is in this background that the objections raised by the Appellant are required to be examined.

17.13. The Appellant has devoted considerable attention to the inconsistencies appearing in the Annual Returns filed before the Registrar of Companies and has also pointed out certain differences between those filings and the statutory registers produced before this Tribunal. There is no dispute that the statutory filings made by a company are expected to correctly reflect its records. Any inconsistency therein deserves due consideration. However, the Tribunal is also required to keep in mind the nature of such documents. An Annual Return is a statutory filing reflecting the affairs of the Company for a particular financial year. It is not the document by which a transfer of shares is effected. Therefore, every discrepancy in an Annual Return cannot automatically invalidate the transfer itself unless it is shown that the discrepancy goes to the root of the transaction under challenge.

17.14. The Appellant has also relied upon the subsequent applications filed by the Respondents before the Registrar of Companies for rectification of certain statutory filings and has argued that the same amounts to an admission that the records maintained by the Company are unreliable. This contention, in the opinion of this Tribunal, cannot be accepted in the manner suggested by the Appellant. The subsequent rectification of statutory filings may have a bearing on the correctness of those filings. However, such subsequent events do not by themselves establish that the transfer alleged to have taken place on 31.12.2019 was non-existent or invalid. The Tribunal is concerned with the validity of the transaction on the date on which it is alleged to have taken place. Events occurring thereafter have to be examined with caution and only to the extent they throw light on the transaction itself.

17.15. The Tribunal also finds that considerable emphasis has been placed by the Appellant on the delayed production of certain documents, particularly the original share certificates. It is true that the said documents came to be produced only after specific directions were issued by this Tribunal. Such delay certainly entitled the Appellant to question the authenticity of the documents and also required this Tribunal to scrutinise the same carefully. However, delayed production by itself cannot lead to the conclusion that the documents were created subsequently. Once the documents were produced before the Tribunal, the Appellant was required to demonstrate, on the basis of acceptable material, that they were fabricated or otherwise incapable of being relied upon. The delay in production, by itself, is not sufficient to discard the documents in their entirety.

17.16. A significant part of the Appellant's case rests upon the allegation that Form SH-4 is forged and that the statutory records were subsequently prepared to support the alleged transfer. These are serious allegations. However, except for pointing out inconsistencies in the surrounding record and disputing the signatures appearing on Form SH-4, the Appellant has not placed any independent material before this Tribunal to establish that the document is forged or that it was prepared subsequently. The allegation has remained at the level of assertion. The Tribunal is conscious that direct evidence may not always be available in cases of this nature. At the same time, a finding of forgery or fabrication cannot be recorded merely on suspicion or inference unless the surrounding circumstances clearly lead to such a conclusion.

17.17. This Tribunal also cannot lose sight of the fact that the Appellant has relied upon several inconsistencies appearing in different documents and has invited the Tribunal to infer that the entire transaction is fabricated. While the cumulative effect of surrounding circumstances can certainly be taken into account, the Tribunal must still examine whether the inconsistencies relied upon actually affect the transaction under challenge. If a discrepancy relates to a subsequent statutory filing, a clerical mistake or a procedural lapse which has no direct bearing on the transfer dated 31.12.2019, the same cannot, by itself, constitute a ground for directing rectification under Section 59. The rectificatory jurisdiction is intended to correct wrongful entries in the Register of Members and not to invalidate every corporate action merely because imperfections are noticed in the maintenance of records.

17.18. The main plank of the Appellant's case is that the documents relied upon by the Respondents are fabricated and were prepared only after the dispute arose. The Appellant has questioned the genuineness of Form SH-4, the Minutes of the Board Meeting dated 31.12.2019, the Register of Members, the Register of Share Transfers and the share certificates. It has also been argued that the inconsistencies in the Annual Returns and the subsequent attempts made before the Registrar of Companies to rectify those filings clearly show that the Respondents have manipulated their records. On the other hand, the Respondents have maintained throughout that the transfer was effected on 31.12.2019, that the statutory records were maintained in the ordinary course and that whatever documents were called for by this Tribunal have been produced before it.

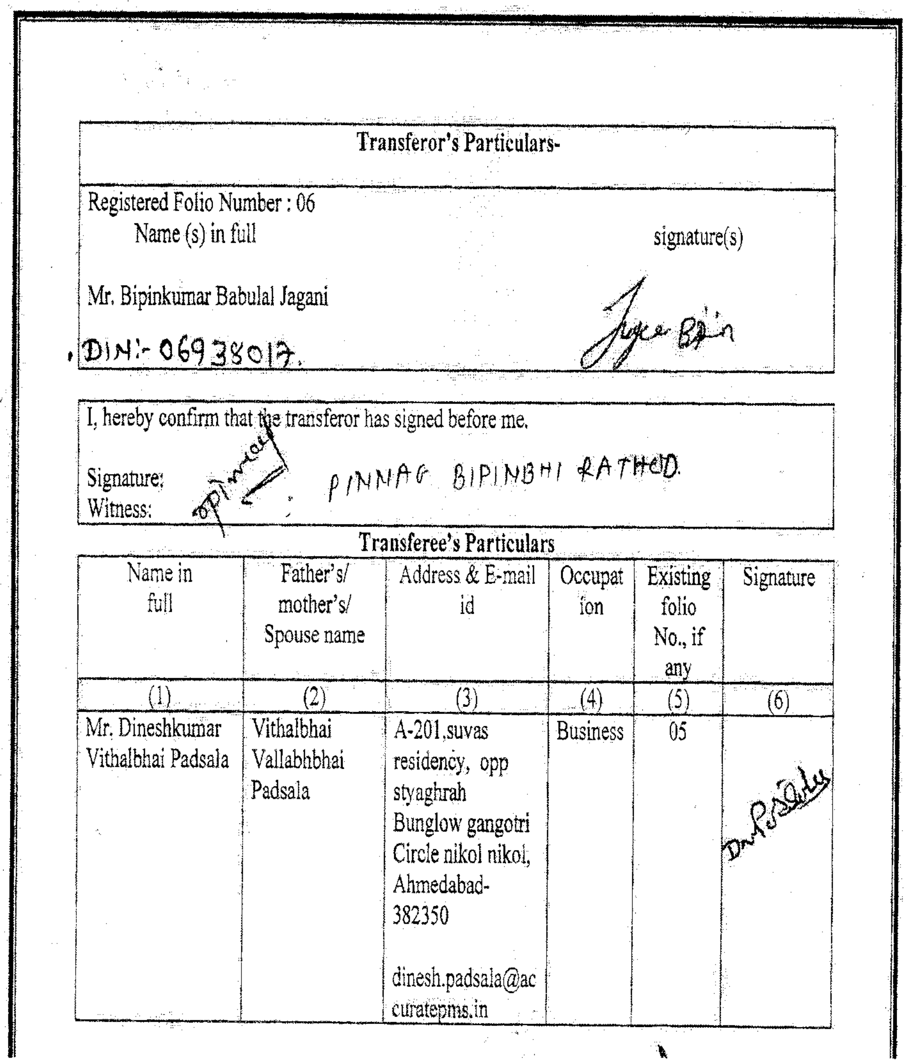
17.19. This Tribunal has examined the objections raised by the Appellant in the light of the entire record. It is true that certain inconsistencies have been noticed by the Appellant in the statutory filings as well as in some of the documents subsequently produced by the Respondents. Those inconsistencies cannot be ignored. However, the question before this Tribunal is not whether the records of the Company have been maintained with absolute accuracy. The question is whether those inconsistencies are of such a nature that they render the alleged transfer dated 31.12.2019 non-existent or illegal. Unless such a link is established, the rectificatory jurisdiction under Section 59 cannot be exercised merely because defects are noticed in the maintenance of corporate records.

17.20. Considerable emphasis has been placed by the Appellant on the fact that several documents were produced only after directions were issued by this Tribunal. The record shows that pursuant to the order dated 12.10.2023, the Respondents filed an additional affidavit placing on record the Register of Members, Register of Share Transfers, Share Transfer Deeds and the Minutes of the Board Meetings dated 20.12.2019 and 31.12.2019. Thereafter, pursuant to a further order dated 06.11.2025, the Respondents also produced copies of the share certificates. The Appellant has contended that the delayed production itself shows that the documents were subsequently created.

17.21. This contention does not merit acceptance in the manner suggested by the Appellant. The delayed production of a document may certainly require the Tribunal to scrutinise it with greater care. However, delayed production by itself does not establish fabrication. Once the documents were produced before this Tribunal, the Appellant was permitted to inspect them and was also granted liberty to file additional pleadings pointing out every discrepancy noticed by him. The Tribunal has, therefore, examined those objections on their own merits and not merely on the basis of the stage at which the documents came to be produced.

17.22. The Appellant has also argued that the Respondents have taken inconsistent stands in their statutory filings and that applications have been made before the Registrar of Companies to rectify certain Annual Returns. Those circumstances may indicate deficiencies in statutory compliance or maintenance of records. However, an Annual Return is only a statutory filing reflecting the affairs of the Company. It is not the instrument through which title in shares is transferred. Therefore, unless the discrepancy in the Annual Return is shown to directly contradict or invalidate the transfer allegedly effected on 31.12.2019, the same cannot by itself constitute a ground to direct rectification of the Register of Members.

17.23. One of the principal grounds urged by the Appellant is that the signatures appearing on Form SH-4 are forged and that he never executed the said document. The Tribunal has carefully examined the disputed signatures appearing on Form SH-4 alongside the admitted signatures of the Appellant available on the memorandum of the present Company Appeal. On a prima facie comparison, this Tribunal does not find any apparent or striking dissimilarity between the two sets of signatures so as to persuade it to accept the allegation of forgery merely on visual examination. For ready reference, the relevant portion of Form SH-4 dated 31.12.2019 containing the disputed signature and the admitted signature of the Appellant on the Company Appeal are reproduced hereinbelow:



Transferor's Particulars-	
Registered Folio Number : 06 Name (s) in full Mr. Bipinkumar Babulal Jagani DIN:- 06938017.	signature(s) Jagani Bipin

I, hereby confirm that the transferor has signed before me.

Signature:
Witness: PINNAG BIPINBHI RATHOD

Transferee's Particulars

Name in full	Father's/ mother's/ Spouse name	Address & E-mail id	Occupation	Existing folio No., if any	Signature
(1)	(2)	(3)	(4)	(5)	(6)
Mr. Dineshkumar Vithalbhai Padsala	Vithalbhai Vallabhbhai Padsala	A-201,suvas residency, opp styaghrah Bunglow gangotri Circle nikol nikol, Ahmedabad-382350 dinesh.padsala@accuratepms.in	Business	05	D.V.Padsala

AFFIDAVIT VERIFYING APPEAL

I, Bipinkumar Jagani S/o Babulal Jagani, aged about 47 years, presently residing at 402- B Vishwas City-II, Opp. Shayona City, Chanakyapuri Road, Ghatlodia, Ahmedabad, Gujarat-380061, do solemnly affirm and state that;

1. I am one of the Equity Shareholder of M/s. Accurate PMS Private Limited ('the Company') and holding its 10000 Equity Shares of Rs 10 each constituting 20% of the Company's paid up Share Capital.

2. The present appeal is made u/s 59 of the Companies Act, 2013 r/w Rule 11 of the NCLT Rules, 2016 for seeking the directions of this Hon. Tribunal to the Company for the rectification of its Register of Member by entering my name in the register of member as presently my name is omitted therefrom without any sufficient cause.

3. The Statements made in the Appeal herein now shown to me are true to my knowledge & belief and these statements are based on the information furnished to me by the present management of the Company, information and documents of the Company available on MCA portal and I believe them to be true & correct.

Bipinkumar Jagani
(Deponent)

VERIFICATION:

I verify that the contents of this affidavit are true to the best of my knowledge and belief.

Place: Ahmedabad

Date: 19-12-2022

Bipinkumar Jagani
(Deponent)

Serial No. 1123 /2022
Solemnly Affirmed &

The allegation of forgery has remained unsupported by any independent evidence. Despite repeatedly asserting that the signature on Form SH-4 is not his, the Appellant has not produced any report of a handwriting expert or any other material capable of substantiating the allegation. In proceedings of the present nature, where the burden lies upon the Appellant to establish that the transfer is founded on a forged document, such a serious allegation cannot be accepted merely on the basis of assertion, In the absence of any expert opinion or other cogent evidence, this Tribunal is unable to hold that the signature appearing on Form SH-4 is forged.

17.24. The conduct of the parties also deserves notice. The Appellant resigned from the office of Director with effect from 31.12.2019 but admittedly continued as an employee of the Company till August, 2021. The present dispute surfaced only in October, 2022 after exchange of email correspondence between the parties. The Appellant relies upon the email dated 03.10.2022 to contend that he came to know of the alleged transfer only upon receiving the copy of Form SH-4. The Respondents rely upon the same correspondence, including the email regarding the alleged demand of Rs. 50,00,000/-, to contend that the proceedings were initiated only after the said demand was not accepted. The Tribunal does not consider the correspondence to be conclusive either way. It is, however, a relevant circumstance while appreciating the sequence in which the dispute arose.

17.25. The Tribunal has also considered the repeated contention of the Appellant that no consideration was ever paid for the alleged transfer and that no contemporaneous proof of payment has been produced. This contention has been specifically denied by the Respondents. The dispute, therefore, remains one of appreciation of the material placed on record. Mere absence of further documentary support, in the facts of the present case, cannot by itself lead to the conclusion that the transfer never took place, particularly when the relief sought is one of rectification under Section 59 and not a declaration of title after a full-fledged civil trial.

17.26. The Petitioner has submitted that resignation letter on 07.12.2019 should have been effective from 31.12.2019. The share transfer form is also dated 31.12.2019. The Petitioner was working with the company till August 2021 after his resignation as a director. The reasons for not objecting to any documents/filing by the company till October 2022 are not forthcoming from the Petitioner. The Respondent No.1 has filed a copy of the minutes of meeting of Board of Directors held on 31.12.2019 (Pages 34 to 36 of the sur-rejoinder) that shows that the main agenda concerns transfer of shares and the SH-4 was placed before the Board and resolution states that the transfer is approved and name of transferee Mr. Dineshkumar Vithalbhai Padsala be entered in the register of members. This meeting was attended by five directors including Mr. Jaykumar Rajnikant Shah referred by the Petitioner informing him the share transfer in the year 2022.

17.27. After examining the pleadings, the documents produced pursuant to the orders of this Tribunal and the objections raised in the rejoinder, sur-rejoinder, rebuttal affidavit, additional affidavits and counter affidavit, this Tribunal finds that the Appellant has undoubtedly pointed out several inconsistencies in the Respondents' records. Those inconsistencies justify careful scrutiny of the documents relied upon by the Respondents. However, the Appellant has not been able to demonstrate that those inconsistencies go to the root of the transaction dated 31.12.2019 or that they establish that the omission of his name from the Register of Members was without sufficient cause. Many of the objections relate to subsequent statutory filings, delayed production of documents or procedural irregularities. By themselves, they do not establish that the alleged transfer is non-existent or legally unsustainable.

17.28. The rectificatory jurisdiction under Section 59 is intended to correct wrongful entries in the Register of Members. It is not intended to invalidate a transfer merely because every record maintained by the Company is not free from defects. In the facts of the present case, this Tribunal is unable to hold that the material placed by the Appellant crosses the threshold required for directing rectification of the Register of Members.

17.29. Accordingly, this issue is answered against the Appellant and in favour of the Respondents. The Appellant has failed to establish that the omission of his name from the Register of Members of Respondent No. 1 Company was "without sufficient cause" within the meaning of Section 59 of the Companies Act, 2013.

18. **Findings on Issue No. (iii):** Whether the alleged transfer of 10,000 Equity Shares standing in the name of the Appellant in favour of Respondent No. 2 on 31.12.2019 is valid and legally sustainable?

18.1. This issue is closely connected with the findings recorded while deciding Issue No. (ii). The Appellant has sought a declaration that the transfer of his 10,000 Equity Shares in favour of Respondent No. 2 is illegal, void and liable to be ignored while considering the Register of Members. According to the Appellant, the alleged transfer is founded on a forged Form SH-4, unsupported by consideration and surrounded by inconsistencies in the statutory records maintained by the Company. The Respondents, on the other hand, have maintained that the transfer was voluntarily executed by the Appellant on 31.12.2019, that the original share certificates were handed over, the transfer was approved by the Board of Directors and the necessary entries were made in the statutory registers.

18.2. The entire challenge to the transfer rests on the allegation that the documents relied upon by the Respondents are fabricated. As already discussed while dealing with Issue No. (ii), the Appellant has pointed out several inconsistencies in the records maintained by the Company. This Tribunal has also noticed that certain statutory records were produced only after directions were issued during the pendency of these proceedings. Those circumstances certainly required careful scrutiny of the Respondents' case. However, after considering the pleadings, the documentary record and the explanations offered by the Respondents, this Tribunal has not found sufficient material to conclude that the transfer documents themselves are fabricated or that the transfer dated 31.12.2019 never took place.

18.3. Equally, the objections raised by the Appellant regarding subsequent Annual Returns, delayed production of documents and procedural irregularities do not, in the facts of the present case, invalidate the transfer by themselves. Most of those objections relate to events subsequent to 31.12.2019 or to statutory compliances undertaken thereafter. Unless such irregularities are shown to affect the validity of the transfer itself, they cannot be treated as sufficient to declare the transaction void.

18.4. This Tribunal is also conscious that a declaration that a document is forged or fabricated carries serious civil consequences. Such a finding cannot be recorded merely because doubts have been raised about the surrounding circumstances. It must be supported by cogent material establishing that the document is not genuine. In the present case, the Appellant has not placed such material on record. The allegations of forgery and fabrication have, therefore, remained unsubstantiated.

18.5. In proceedings under Section 59 of the Companies Act, 2013, the Tribunal is concerned with examining whether the Register of Members requires rectification. Where the party seeking rectification fails to establish that the transfer recorded in the Register is illegal or unsupported by the record, the Tribunal would not be justified in disturbing the existing entries merely because certain deficiencies are noticed in the maintenance of corporate records.

18.6. For the reasons recorded above, this Tribunal finds that the Appellant has failed to establish that the transfer of 10,000 Equity Shares in favour of Respondent No. 2 on 31.12.2019 is invalid or legally unsustainable.

19. In view of the findings recorded on the issues framed by this Tribunal, it is held that although the present Company

Appeal under Section 59 of the Companies Act, 2013 is maintainable, the Appellant has failed to establish that the omission of his name from the Register of Members of Respondent No. 1 Company was "without sufficient cause". The Appellant has also failed to substantiate the allegations of fraud, forgery and fabrication levelled against the Respondents so as to invalidate the alleged transfer of 10,000 Equity Shares in favour of Respondent No. 2.

20. This Tribunal has noticed certain inconsistencies in the statutory records and filings of Respondent No. 1 Company, some of which have also been sought to be explained or rectified by the Respondents during the course of these proceedings. However, those inconsistencies, in the facts and circumstances of the present case, have not been shown to be of such a nature as to strike at the root of the transaction dated 31.12.2019 or to establish that the omission of the Appellant's name from the Register of Members was without sufficient cause. Mere procedural lapses or discrepancies in statutory filings, in the absence of cogent material establishing that the impugned transfer itself is non-existent or illegal, cannot be made the basis for

directing rectification under Section 59 of the Companies Act, 2013.

21. Consequently, the reliefs sought by the Appellant for restoration of his name in the Register of Members of Respondent No. 1 Company, declaration that the alleged transfer of 10,000 Equity Shares in favour of Respondent No. 2 is null and void, and all other consequential reliefs, cannot be granted.

22. Accordingly, **Company Appeal No. 1 of 2023** stands ***dismissed***. There shall be no order as to costs.

-SD- -SD-

SANJEEV SHARMA
MEMBER (TECHNICAL)

SHAMMI KHAN
MEMBER (JUDICIAL)

HG