A minority shareholder, even if a public sector undertaking, does not have a special right for differential treatment or separate valuation outside the prescribed statutory rules of the Companies Act, 2013, unless such a special right is provided under the Articles of Association

The **Chennai Bench of the National Company Law Tribunal (NCLT)** in the case of **Tamilnadu Industrial Investment Corporation Limited vs Dipak Raj Sood [CP(CAA)/34(CHE)/2024] dated April 02, 2026**, has held that takeover offer under a scheme of arrangement to acquire remaining minority shares under Section 230(11) of the Companies Act, 2013, where shares of non-promoter shareholders are taken over by promoters based on fair valuation prescribed by the Act and applicable rules, cannot be termed as 'disinvestment' by a State Government Company.

The NCLT held that a minority shareholder, even if a public sector undertaking, does not have a special right for differential treatment or separate valuation outside the prescribed statutory rules of the Companies Act, 2013, unless such a special right is provided under the Articles of Association or through any other instrument.

An application under Section 230(12) of the Companies Act, 2013 for grievances with respect to a takeover offer must be made when the scheme is under consideration by the Tribunal; and an application for recall or modification under Section 230(12) and Section 231(1)(b) is not maintainable once the scheme has been fully implemented and the consideration has been distributed and accepted, added the Tribunal.

The Tribunal observed that Section 230(12) of the Companies Act provides an opportunity for an aggrieved person to apply to the tribunal in respect of a grievance, if any, in the takeover offer of the company, and this application should be made when the scheme is under consideration by the tribunal. In the present case, the application was filed much after the scheme was approved and implemented.

The Tribunal observed that Section 231(1)(b) gives power to the tribunal to give directions or modify the scheme for its proper implementation; however, the scheme has been fully implemented, consideration has been distributed to all shareholders other than dormant shareholders, and the Applicant has also received its share of consideration. The Scheme of takeover under Section 230(11) of the Companies Act 2013 was approved by the tribunal after following the due process on 31.07.2024, and the valuation of shares was made as provided under Rule 3(6)(a) of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

The Tribunal further observed that Section 230(11) of the Companies Act was notified on 03.02.2020, providing an opportunity for majority shareholders to squeeze out minority shareholders through a process of selective reduction. The framework set in place by the above provisions does not envisage any inherent right of minority shareholders to retain their shares in the face of fair consideration being offered to them, based on legal precedents such as the Bombay High Court judgment in Sandvik Asia Limited v. Bharat Kumar Padamsi and the Cadbury India Limited principles, which emphasize ensuring fair valuation by reference to the rate at which past offers were effected.

Moving ahead, the Tribunal observed that disinvestment is the process when the Government wants to take back the investment made by it, and the guidelines regarding getting the highest of the valuation from the five valuation methods will be applicable only then. In the present case, it is a scheme under which shares of non-promoter shareholders are being taken over by the promoters based on the fair valuation as prescribed by the Companies Act and applicable rules, so this process in no way can be termed as disinvestment.

Thus, under the Articles of Association or through any other instrument, the Applicant does not get a special right for differential treatment in case of a takeover of shares by promoters under Section 230(11) of the Companies Act 2013, added the Tribunal.