



**IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION**

CAUSE NO: FSD 278 OF 2021 (DDJ)

**IN THE MATTER OF THE EXEMPTED LIMITED PARTNERSHIP ACT (2021 REVISION)
AND IN THE MATTER OF THE COMPANIES ACT (2021 REVISION) AND THE
PARTNERSHIP ACT (2013 REVISION)
IN THE MATTER OF NEW SILK ROUTE ADVISORS, L.P.**

Before: The Hon. Justice David Doyle

Heard: On the papers

**Draft Judgment
circulated:** 3 August 2023

Judgment delivered: 8 August 2023

HEADNOTE

Determination of various issues relating to costs

JUDGMENT

Introduction

1. On 27 June 2023 I heard the Summons dated 17 March 2023 (the “Summons”) of Gupta Associates, LLC (the “Petitioner”) and delivered an *ex tempore* judgment. By Order made on 30 June 2023 (the “Order”) I ordered, amongst other things, that:

- (1) the temporary case management stay be lifted;
- (2) the Petitioner shall have leave to amend its petition;

230808 In the matter of New Silk Route Advisors, L.P. – Judgment (costs) - FSD 278 of 2021 (DDJ)

1 of 4

- (3) the costs of and occasioned by the amendments to the Petition be paid by the Petitioner to be taxed on the standard basis if not agreed; and
 - (4) the parties are to agree the remaining costs orders by 13 July 2023. If agreement could not be reached by that date, the parties should submit concise written submissions on costs, of no more than five pages, before the expiry of that deadline.
2. Agreement was not reached and concise written submissions on the remaining costs issues were filed.

Petitioner's Submissions

3. I have considered the Petitioner's submissions.
4. In the Petitioner's written costs submissions dated 13 July 2023 the Petitioner seeks orders that:
 - (1) the Petitioner's costs of and occasioned by the Summons be paid by the "Respondents", namely Saxena Holdings LLC and Tagusi Holdings LLC (the "Saxena Parties");
 - (2) an interim payment on account of the Petitioner's costs of and occasioned by the Summons, in an amount representing 50% of the maximum costs recoverable on the standard basis, be paid by the Saxena Parties within 28 days; and
 - (3) the costs incurred by the Partnership (acting by its general partner, New Silk Route Partners, Ltd) in connection with the Summons to be paid by the Saxena Parties, to be taxed on the indemnity basis if not agreed.

Saxena Parties' Submissions

5. I have also considered the Saxena Parties' submissions.
6. In the Saxena Parties' written submissions on costs dated 13 July 2023 they seek orders that:

- (1) costs of the application to lift the case management stay be costs in the cause; and
 - (2) the Petitioner should pay the costs of the application for leave to amend.
7. The Saxena Parties' written submissions on interim payment dated 24 July 2023 submit that the interim payment application should be refused.

Determination

8. I now turn to the determination of the various costs issues.
9. I agree that the costs of the application to lift the case management stay at paragraph 1 of the Summons should be costs in the cause. The Petitioner took steps to amend its petition to facilitate the lifting of the stay. The Court was engaged essentially in making a case management decision. The burden of showing relevant and material change of circumstances was on the Petitioner. It was not unreasonable for the Saxena Parties to oppose the application. Costs in the cause is the fairest order in the circumstances.
10. The Petitioner should pay the costs of its application for leave to amend at paragraph 2 of the Summons. The Saxena Parties did not act unreasonably in their stance in respect of the application for leave to amend. The Petitioner plainly applied for leave to amend to bolster the chances of its success in applying for the lifting of the stay. It should pay the costs for its belated change in direction and such costs should be taxed on the standard basis in default of agreement.
11. I make no order in respect of any costs incurred by the Partnership in connection with the Summons. The Partnership was not required to actively participate in the proceedings before the Court and it made no application for costs.
12. As I have not made any orders for costs in favour of the Petitioner the issue of an interim payment on account for the Petitioner does not arise.

13. Counsel are to file a draft order within the next 7 days reflecting my determinations on the various issues relating to costs.

David Doyle

THE HON. JUSTICE DAVID DOYLE
JUDGE OF THE GRAND COURT