

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 821 of 2019

IN THE MATTER OF:

Dada Dhuniwale Khandwa
Power Limited, Liquidator,

.... Appellant

Vs

Commissioner of Income Tax (Appeals) -1.

.... Respondent

Present:

**For Appellant: Mr. Surinder Kumar, C.A. and Ms. Madhu
 Juneja, C.A. & AR of Appellant.**

ORDER

14.08.2019 The 'Liquidator' has preferred this Appeal against the order dated 5th July, 2019 passed by the Adjudicating Authority (National Company Law Tribunal), Ahmedabad Bench, Ahmedabad, which reads as follows: -

"The Applicant is represented through their respective Learned PCA.

The Misc. application is filed by the Liquidator of Dada Dhuniwale Khandwa Power Ltd, under Section 60(5) of the Insolvency and Bankruptcy Code, seeking direction on Commission of Income Tax to immediately disposed of the appeal cases pending before the corporate person and/or pass any such order as may deem fit.

Gone through the records and pleadings, it is found that, this is not an Appropriate forum to file the instant application, seeking for directions upon the Income Tax (Appeal) for disposal of the appeal pending therein,

which is also a judicial forum as such the same is not maintainable before this Adjudicating Authority.

The liquidator is expected to file the such application either before the same forum or next higher competent authority of Income Tax (Appeal) for any relief as the case may be.

Under such circumstances, we are constrained to pass any order, in the Misc. application as the present application is not maintainable.

Accordingly, MA 18 of 2019 is dismissed being not maintainable.”

2. Mr. Surinder Kumar, the ‘Liquidator’ tried to submit that the Adjudicating Authority had jurisdiction to direct the Commissioner of Income Tax to decide the Appeal. However, we are of the view that no such power is vested with the Adjudicating Authority to give any direction to any of the Authority under the Income Tax Act, unconnected proceeding under Liquidation. We find no illegality in the impugned order. The Appeal is accordingly dismissed. No cost.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice A.I.S. Cheema]
Member (Judicial)

[Kanthi Narahari]
Member (Technical)

Ash/GC