

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Ins.) No. 798 of 2023

IN THE MATTER OF:

Kuldeep Anopsinh Chudasma

....Appellant

Vs.

Sunil Kumar Agarwal

....Respondents

Resolution Professional of Yogiraj Spinning Ltd. & Ors.

Present:

For Appellant: Mr. Arjun Sheth, Ms. Henna George, Advocates.

**For Respondents: Mr. Vinit Trehan, Mr. Nipun Singvi, Mr. Vishal J. Dave,
Mr. Aditya Trehan, Mr. Kunvar Karan, Ms. Bhavya Jain,
Advocates.**

O R D E R

03.07.2023: Heard Learned Counsel for the Appellant as well as Learned Counsel for the Respondent.

2. This appeal has been filed against the order of Adjudicating Authority dated 17.05.2023 by which order application filed under Section 19 of the IBC by the Resolution Professional has been allowed.

3. Learned Counsel for the Appellant challenging the order submits that in the premises, the Respondent No. 4 was a tenant who is continuing from 2019 on the basis of a rent deed. He submits that the tenant was paying rent to the extent of Rs. 1 lakh per month and Adjudicating Authority without considering submissions and the reply of the Appellant and Respondent No. 4 has passed the impugned order.

4. Learned Counsel appearing for the Resolution Professional has refuted the submissions and submits that the reply was filed to the I.A. both by Suspended Director and as well as the Respondent No. 4 (the alleged tenant). It is submitted that the rent deed which was filed itself indicate that rent deed was for 61 months and it was unregistered deed. It is submitted that according to the case of the tenant himself it was clear that he was making payment to

the creditors of the Corporate Debtor and not directly rent to the Corporate Debtor.

5. It is further submitted that the reply which was filed to the I.A. itself indicated that manufacturing activities have been stopped for last one month or more which was intended to be revived.

6. We have considered the submission for Learned Counsel for the parties and perused the record.

7. An order under Section 19, application has been filed after giving due opportunity to the parties, Reply to the Section 19 application was filed which had been taken note by the Adjudicating Authority.

8. The basis of the argument is the rent deed which is a rent deed for a period of 61 months, an unregistered document. It is settled law that no rent agreement beyond 12 months can be executed by unregistered document. The Adjudicating Authority has rightly not relied on the said rent deed to accept the Respondent No. 4 as a valid tenant.

9. When there is no valid tenancy in favour of Respondent No. 4, Adjudicating Authority did not commit any error in directing for handing over the possession of the factory premises to the Resolution Professional.

10. We are satisfied that the Adjudicating Authority in exercise of power under Section 19 have rightly issued direction which does not warrant interference in the appeal. Appeal is dismissed.

[Justice Ashok Bhushan]
Chairperson

[Mr. Barun Mitra]
Member (Technical)

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