

**IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI, COURT-III**

IA-438/2024
In
IB-690(ND)/2018

Under Rule 11 of NCLT Rules, 2016 read with Rule 155 read with Section 60(5) of IBC, 2016.

IN THE MATTER OF IB-690(ND)/2018:

M/s. BM Pipes Private Limited

..... Operational Creditor

Versus

M/s. MAS Project Engineers Private Limited

..... Corporate Debtor

AND IN THE MATTER OF IA-438/2024:

Mr. Anil Bhalla & Ors.

..... Applicants

Versus

Mr. Ashok Kumar Junjea & Ors.

..... Respondents

Order Pronounced On: 08.04.2024

CORAM:

**SHRI BACHU VENKAT BALARAM DAS, HON'BLE MEMBER (JUDICIAL)
SHRI ATUL CHATURVEDI, HON'BLE MEMBER (TECHNICAL)**

PRESENT:

For the Applicant :
For the Respondent :

ORDER

PER: BACHU VENKAT BALARAM DAS, MEMBER (JUDICIAL)

1. This application has been filed by Mr. Anil Bhalla & Ors, who is the Suspended Director and Unsecured Financial Creditor of the Corporate Debtor i.e. M/s. MAS Project Engineers Private Limited under Rule 11 of NCLT Rules, 2016 read with Rule 155 read with Section 60(5) of IBC, 2016, for recalling of order dated 07.12.2023 passed by this Adjudicating Authority and also other reliefs.
2. On 07.12.2023, this Adjudicating Authority passed an order in IA-5309/2023 replacing Mr. Ashok Kumar Juneja, who was initially appointed as a Liquidator with Mr. Rajeev Lochan as the Liquidator of

the Corporate Debtor. The said order dated 07.12.2023 is extracted below:

“IA-5309/2023:-

In compliance with the order dated 30.11.2023, Mr. Ashok Kumar Juneja, the current Liquidator has filed an affidavit stating that he is going to be permanently settled in U.S.A. and therefore, he is unable to act as a Liquidator of the Company henceforth.

In view of the statement made by Mr. Ashok Kumar Juneja, we relieve Mr. Ashok Kumar Juneja from the responsibility of Liquidator of M/s. M/s. Mas Project Engineers Pvt. Ltd. and direct that Mr. Rajeev Lochan, having Registration No. IBBI/IPA-002/IP-N00606/2018-19/11885 be appointed as the Liquidator in terms of prayer B.

IA disposed of.

*List the remaining IAs on **11.01.2024.**”*

- 3.** The Applicant has raised various contentions in the present application with regard to the procedure adopted by Mr. Ashok Kumar Juneja, the Erstwhile Liquidator in calling the SCC meetings. The Applicant has alleged that the Erstwhile Liquidator did not share the List of Stakeholders to all the Members of the SCC and failed to determine the voting share of the Member of the SCC. Further, the Erstwhile Liquidator in the 10th SCC meeting held on 05.04.2023 reconstituted the Stakeholder Consultation Committee for which a communication vide email dated 17.02.2023 was sent to the Employees and the Operational Creditors of the Corporate Debtor requesting them to nominate a representative to represent their category/class at the SCC meeting. However, the Members of the SCC in the Class of unsecured Financial Creditors and Shareholders were not asked to nominate a representative and were not given any intimation about the reconstitution of the SCC. On the aforesaid allegations, the Applicant has prayed for the following reliefs:-

- *“Allow the present application thereby recalling order dated 07.12.2023 passed by this Hon’ble Tribunal whereby the*

Liquidator has been changed from Mr. Ashok Kumar Juneja to Mr. Rajeev Lochan.

- *Refer the present matter to the Insolvency and Bankruptcy Board of India for investigation into the conduct of Mr. Ashok Kumar Juneja.*
- *Pass such other order(s) as it deems fit and proper in the facts and circumstances of the case.”*

4. The Respondent has filed a reply affidavit denying the allegations made by the Applicant. Mr. Ashok Kumar Juneja, Erstwhile Liquidator appearing in person has submitted that the Stakeholder Consultation Committee in its 11th meeting held on 12.09.2023 has passed Resolution with 96.67% majority to change the Liquidator and appoint Mr. Rajeev Lochan as the new Liquidator. He further stated that he is a Green Card Holder (Permanent Resident) of USA and due to compelling family exigencies, he is going to permanently settle in USA and therefore, unable to act as a Liquidator of the Corporate Debtor.
5. We have heard the submissions made by the Learned Counsel appearing for both the parties and perused the records.
6. Having regard to the various contentions raised by the Applicant, we are of the view that the Applicant is attempting to seek a review of the order dated 07.12.2023 in the guise of filing the present application for recall of the said order. The order dated 07.12.2023 was passed after taking into consideration, the submissions made by the Erstwhile Liquidator and after perusing all the relevant documents on record.
7. Thus, the prayers made in this application cannot be allowed which will amount to review of the orders passed by this Adjudicating Authority on 07.12.2023. It is settled principle of law that this Adjudicating Authority has no power to review its order. Therefore, the present application is **dismissed**.

Sd/-

(ATUL CHATURVEDI)
MEMBER (TECHNICAL)

Sd/-

(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)