

National Company Law Appellate Tribunal

Principal Bench, New Delhi

I.A. No. 1991 & 1992 of 2022

In

Company Appeal (AT) (Insolvency) No. 215-216 of 2022

IN THE MATTER OF:

Amit Rajput

S/o. Shri Bhupendra Singh,
R/o. Villa E-8, Hibiscus Complex,
SS Group, Sector 50,
Gurgaon, Haryana – 122009.

...Appellant

Versus

1. M/s. Reckon Industries Limited

CIN: U51909DL1985PL021408
Office: 111, Tribhuwan Complex
Ishwar Nagar, Mathura Road
New Delhi – 110065.

...Respondent No. 1

2. M/s. Warm Gorging Pvt. Ltd.

Through Interim Resolution Professional
CIN: U34300RJ1999PTC015907
Office: Plot No. SP 238 (B&C)
Industrial Area Kaharani (Bhiwadi Extension)
Bhiwadi, Alwar, Rajasthan – 301019.

...Respondent No. 2

For Appellant:

**Dr. Pankaj Garg, Sr. Advocate with Mr. Milind
Garg & Ms. Nikita Jain Garg, Advocates.**

For Respondents:

Mr. Ravi Chirania, Advocate for Respondent.

O R D E R

[Per; Shreesha Merla, Member (T)]

1. *Comp. Apps. (AT) (Ins.) No. 215 & 216 of 2022* was dismissed by this Tribunal vide Order dated 04.07.2022, confirming the 'Admission' of the Section 7 Petition, filed by the Respondent/ 'M/s. Reckon Industries Ltd.'.

2. Subsequently, I.A. 1991-1992 of 2022 was filed by the Applicant/Appellant with a prayer that the Appellant is ready to pay the entire amount of Rs.3.5Crores/- by RTGS on the very next date i.e. 08.07.2022.

3. Additionally, interest @ 13% p.a. was also offered which was accepted by the Respondent. It was recorded in the Order dated 07.07.2022 by this Tribunal that subject to payment of Rs.3.5Crores/- by the Applicant/Appellant by RTGS by 08.07.2022 no further steps would be taken in pursuance of the Order dated 04.07.2022.

4. The matter was subsequently posted to 25.07.2022 for payment of interest @ 13% p.a. and for filing of Compliance Affidavit.

5. Admittedly, the Appellant has received the entire principal amount of Rs.3.5Crores/- by RTGS and interest of Rs.1.05Crores/- calculated @ 13% p.a. from the date the Petition was filed. It is the case of the Respondent that the Appellant ought to have calculated interest from the date the money was actually disbursed. Without entering into this issue and keeping in view the recent developments whereby substantial amounts have been paid and also having regard to the fact that under IBC, which is not a recovery proceeding, the Respondent might not have even got these amounts, in the interest of justice, we find it a fit case to exercise our powers under Rule 11 of the NCLAT Rules, 2016 and direct the Adjudicating Authority not to proceed with the Section 7 Application.

6. For these reasons, the Application under Section 7 stands closed.

7. The I.As. are disposed of accordingly.

[Justice Ashok Bhushan]
Chairperson

[Ms. Shreesha Merla]
Member (Technical)

NEW DELHI
06th September, 2022
Himanshu