

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

**Company Appeal (AT) (Insolvency) No. 1222 of 2019
With Interlocutory Application No.3557 of 2019**

IN THE MATTER OF:

Gauri Agarwal Appellant

Vs

UCO Bank and Anr. Respondents

Present:

**For Appellant: Mr. S.C. Das, Mr. A.K. Panda and Mr. Arnab
Gupta, Advocates.**

ORDER

13.11.2019 Having heard the Learned counsel for the Appellant and being satisfied with the grounds, the delay of 9 days in preferring the appeal is condoned. Interlocutory Application No.3557 of 2019 stands disposed of.

2. The Appellant is the Promoter of Kumlai Tea and Industries Limited ('Corporate Debtor') has preferred this Appeal against order dated 16th September, 2019, which reads as follows: -

“Ld. IRP appears. 1st progress report is filed on record. IRP’s appointment as the RP is confirmed by the CoC by 100% votes. Now, RP to proceed with CIRP, as per rules. It is brought to our notice that someone else other than the original directors of the corporate debtor is running the affairs of the corporate debtor. If it is so, we direct the RP to take possession of all assets of the corporate debtor with the help of local police without disturbing the fact that the corporate debtor remains as a going concern on the basis of this order and file the report. Local police are directed to give every assistance free of cost to the RP. Matter to appear on 25.10.2019.”

3. From the aforesaid order, it is clear that the Appellant and other Directors have not yet handed over the assets of the 'Corporate Debtor' and, therefore, no relief can be granted to the Appellant.

4. The Learned Counsel for the Appellant submits that the Appellant is ready to settle the matter. However, that cannot be a ground to refuse to handover the possession of all assets of the 'Corporate Debtor'. Therefore, while we are not inclined to interfere with the impugned order, we direct the Appellant and other Promoters/ Directors/ employees of the 'Corporate Debtor' to immediately handover the assets of the 'Corporate Debtor' along with all the records to the 'Resolution Professional', failing which, contempt proceedings in terms of Chapter VII of the Insolvency and Bankruptcy Code, 2016 (for short '**I&B Code**') can be initiated by the Adjudicating Authority or this Appellate Tribunal.

5. The Appeal and the prayer are rejected with the aforesaid direction to Promoters/ Directors/ employees etc. of the 'Corporate Debtor'

6. However, the impugned order passed by the Adjudicating Authority (National Company Law Tribunal), Kolkata Bench, Kolkata dated 16th September, 2019 or this order, will not come in the way of the Appellant to settle the matter, if they handover all the Assets and Records of the 'Corporate Debtor' to 'Resolution Professional' in accordance with law within a week. If the assets and records are not handed over within a week, then in such case, the Appellant and other Directors etc. should not be given any opportunity to settle the matter even under Section 12A of the I&B Code.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice Venugopal M.]
Member (Judicial)

Ash/GC

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