

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
AT CHENNAI

(APPELLATE JURISDICTION)

Company Appeal (AT) (CH) (Ins) No. 314/2024
(IA No. 835/2024)

In the matter of:

M/s. NIFE Fire Systems Pvt. Ltd.
Rep. by its Liquidator
S. Rajagopal, S/o. Late Srinivasaraghavan,
Aged 79 years, 11/108, 4th Street,
Karpagam Avenue,
R.A. Puram, Chennai – 600028

... Appellant

V

Canara Bank
ARM Branch, 2nd Floor,
Chittoor Road,
Ernakulam South,
PIN - 682016

...Respondent

Present :

For Appellant : Mr. MA. Shaji, Advocate

For Respondent : Mr. Pradeep Joy, Advocate

ORDER
(Hybrid Mode)

02.09.2024:

Oral Judgment : Justice Sharad Kumar Sharma, Member (Judicial):

The Appellant in the capacity of being the Liquidator puts a challenge to the Impugned Order of 28.05.2024, as it has been passed by the learned Adjudicating Authority in MA(IBC)/2/KOB/2024, as preferred in

CP/660/IB/2017.



2. The precise facts of the case are that;

The Corporate Debtor was put to Liquidation and later on, by the subsequent Orders passed on 11.12.2023, the Corporate Debtor was directed to be dissolved under Section 54 of the I & B Code, 2016.

3. The Appellant in the capacity of being the Liquidator submits that he was entitled to receive certain Liquidator Fees due to him amounting to, as per claim, Rs.29,20,817/- from the Canara Bank, the sole Secured Creditor. The claim pertains to the period from 05.10.2018 to 30.06.2023, but the same has not been paid to him. Aggrieved by the same, the Appellant had filed an Application in **IA (IBC)/138/KOB/2024**, before the learned Adjudicating Authority to issue an appropriate direction for remittance of the Liquidator Fee, as per the Regulations of 2016. However later, the Liquidator / Appellant sought to withdraw the said Application and got the Application dismissed as withdrawn by an Order of 03.04.2024, with certain liberties reserved for him to resort to an appropriate remedy as available to him under Law (this Order has not been placed on record and it has been orally read over by the Appellant during the course of the arguments of this Appeal).

4. Subsequent to the order of 03.04.2024, the Appellant filed another application in **MA(IBC)/2/KOB/2024**, before NCLT, Kochi for recalling of the Order of 11.12.2023, directing the dissolution of the Corporate Debtor. It is to be noted that the said order of dissolution has attained finality, since having not



been challenged, and under the garb of the liberty granted on 03.04.2024 and that the powers conferred under Rule 11 of NCLT Rules, 2016, cannot be permitted to be stretched to seek recall of an Order directing dissolution of the Corporate Debtor which has been passed on merit which is unchallenged, by filing a Miscellaneous Application. Further, the dissolution of the Corporate Debtor, as passed under Section 54 of I & B Code, 2016, cannot be held to be dependent upon the aspect of non-remittance of the fee due of the Liquidator.

5. The said Application as preferred by the Appellant has been dismissed by the Impugned Order of 28.05.2024, and the learned Adjudicating Authority has rightly held that non-remittance of the Liquidator's Fee, cannot be a reason to recall an Order of Dissolution of the Corporate Debtor, as directed by the Order of 11.12.2023 and held that the Rule 11 cannot be permitted to be invoked to recall an Order which has been passed on merit for dissolving the Corporate Debtor under Section 54 of the Code and hence held that the Application was not maintainable.

6. After giving a thoughtful consideration and considering the argument extended by the Appellant (in person), we do not find any apparent error committed by the learned Adjudicating Authority in dismissing the MA(IBC)/02/KOB/2024 praying for recall of the Dissolution Order dated 11.12.2023, holding it to be not maintainable, under the Rule 11 of the NCLT



Rules, 2016. Thus, this Appeal too, as against the Impugned Order of 28.05.2024, would stand dismissed.

7. But the dismissal of this Appeal, would not prejudice the liberty granted to the Appellant, by an Order of 03.04.2024, for resorting to an appropriate legal remedy available under the Regulations, 2016, for the purposes of ensuring the remittance of his Liquidator's Fee which he has claimed earlier by IA (IBC) / 138 / KOB / 2024. Accordingly, the Company Appeal (AT) (CH) (INS) No. 314 / 2024 would stand dismissed. The connected pending Interlocutory Applications, if any, stand closed.

(Justice Sharad Kumar Sharma)
Member (Judicial)

[Jatindranath Swain]
Member (Technical)



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[Signature]
03/11/2024

Assistant Registrar
National Company Law Appellate Tribunal
(Chennai Bench)
Chennai