

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
AT CHENNAI

(APPELLATE JURISDICTION)

IA No. 471 / 2023 in Contempt Application (AT) (CH) No. 1 / 2023 in
Comp. App (AT) (CH) (INS.) No. 134 / 2023

(Filed under Section 60 (5) of the Insolvency and Bankruptcy Code, 2016,
read with Rule 11 of the NCLT Rules, 2016)

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Contempt Application (AT) (CH) No. 1 / 2023

in

Comp. App (AT) (CH) (INS.) No. 134 / 2023

(Filed under Section 425 of the Companies Act, 2013, to Initiate Contempt
Proceedings against the IRP of the Respondent No.2 / Alleged Contemnor,
for deliberate and willful disobedience of the Order dated 10.05.2023,
passed by National Company Law Appellate Tribunal, Chennai

In the matter of:

Sathya Moorthy Sai Prasad,

Suspended Director of

M/s. Ozone Projects Private Limited,

Flat No. 103, # 5, Nishanth Prime Aprts.,

Prime Street, Richmond Town,

Bangalore, Karnataka – 560 025

..... Petitioner / Appellant

v.

M/s. Shapoorji Pallonji and Company Pvt. Ltd.

70, Nagindas Master Road,

Fort, Mumbai – 400 023

..... 1st Respondent / 1st Respondent

M/s. Ozone Projects Pvt. Ltd.

Represented by its Interim Resolution

Professional, Mr. S. Rajendran,

New No. 63, G.N. Chetty Road,

T. Nagar, Chennai – 600 017

..... 2nd Respondent / 2nd Respondent

Present :

**For Applicant : Mr. Rana Mukherjee, Senior Advocate
For M/s. Tatva Legal.**

For 1st Respondent : Ms. M. Sanjana, Advocate

**For 2nd Respondent / : Ms. M.S. Elamathi, Advocate
Interim Resolution
Professional**

**ORDER
(Virtual Mode)**

05/06/2023:

**IA No. 471 / 2023 in Contempt Application (AT) (CH) No. 1 / 2023 in
Comp. App (AT) (CH) (INS.) No. 134 / 2023:**

Heard both sides, in IA No. 471 / 2023 in Contempt Application (AT) (CH) No. 1 / 2023 in Comp. App (AT) (CH) (INS.) No. 134 / 2023.

2. It is brought to the fore, on behalf of the 'Petitioner / Appellant' that, this 'Tribunal', on 10.05.2023, in main Comp. App (AT) (CH) (INS.) No. 134 / 2023, had stayed further proceedings in the matter, while directing the 'Reply' of the other side, to be filed 'within two weeks', with an advance copy to the Learned Counsel for the 'Appellant', who may, if so advised, to file the 'Rejoinder', within two weeks, thereafter.

3. As a matter of fact, when further proceedings were Stayed, in respect of the main 'Order' dated 01.05.2023 in CP(IB)/5/CHE/2023, passed by the 'Adjudicating Authority' (National Company Law Tribunal', Division Bench – I Chennai), this 'Tribunal', is of the considered view that the '2nd Respondent' / 'Interim Resolution Professional', should not have proceeded, any further and going by the 'Order', dated 21.11.2022, passed by the 'Principal Bench', of this 'Tribunal', New Delhi, in IA Nos. 4291, 4221 and 4340 of 2022, in Comp. App (AT) (INS.) No. 1323 of 2022, in the matter of Ashok Kumar Tyagi v. UCO Bank and Another, and applying the observations, made in paragraph No. 19, proceeding to the following effect:

19. '..... The Order dated 28.10.2022 has become inoperative in view of the Interim Order of this Tribunal dated 07.11.2022. Hence the Appellant is right in his submission that IRP can not discharge any function after the Impugned Order dated 07.11.2022.'

this 'Tribunal', 'De-freezes', the 'Bank A/c. No.922020018068235', maintained by the '2nd Respondent' / 'Corporate Debtor', with 'Axis Bank', and the 'Corporate Debtor', is directed to be 'kept as a Going Concern', in terms of the tenor and spirit of the 'I & B Code, 2016', till the 'disposal', of the main 'Appeal', without any deviation whatsoever.

4. With the aforesaid observations, the IA No. 471 / 2023 in Contempt Application (AT) (CH) No. 1 / 2023 in Comp. App (AT) (CH) (INS.) No. 134 / 2023, stands **`Disposed of`**. No costs.

Contempt Application (AT) (CH) No. 1 / 2023 in Comp. App (AT) (CH) (INS.) No. 134 / 2023:

5. The Learned Counsel for the `Petitioner / Appellant`, in Contempt Application (AT) (CH) No. 1 / 2023, informs this `Tribunal`, that the `Petitioner / Appellant`, is not pressing the said `Contempt Application`, and the same, may be `Dismissed as Withdrawn`.

6. Acceding to his request, the instant `Contempt Application (AT) (CH) No. 1 / 2023 in Comp. App (AT) (CH) (INS.) No. 134 of 2023`, is **`Dismissed as Withdrawn`**. No costs.

**[Justice M. Venugopal]
Member (Judicial)**

**[Shreesha Merla]
Member (Technical)**

SR / TM