

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Company Appeal (AT) (Insolvency) No. 396 of 2023

IN THE MATTER OF:

Rajiv Dhamija & Anr.

...Appellants

Versus

**Kuldeep Verma,
Liquidator of Manthan Broadband Services Pvt. Ltd.**

...Respondents

Present:

For Appellant: Mr. Rishav Banerjee, Mr. Sharath Sampath, Mr. Aditya Krishna, Advocates

For Respondent: Mr. Rahul Auddy, Advocate for R-1
Mr. Abhijeet Sinha, Mr. Nirnimesh Dube, Advocates
for Intervener

ORDER

18.04.2023: Heard Learned Counsel for the appellant.

2. This Appeal has been filed against the Order dated 14.02.2023 by which Order the Adjudicating Authority has passed an order in Application I.A. No. 334/KB/2023. The Liquidation Order has been passed on 06th April, 2022 and after the Liquidation Order, the Liquidator proceeded to auction the assets and E-Auction notice 11th January, 2023 was issued and Process Document was issued as well. The Application filed by the applicant praying that E-Auction be not held raising objection to Auction on different grounds. The Adjudicating Authority after hearing the parties, passed following order in paragraph 23:

“23. A considerable time has lapsed since Liquidation of Manthan was ordered, and presumably it is the Directors of the suspended Board who had pushed Manthan into Liquidation. At this juncture, allowing the Directors of the suspended board to intervene or restrain

the liquidator from proceeding with the auction would not be fair. Accordingly, we allow E auction as proposed on 14th February, 2023 to be conducted, which shall however, abide by the result of this application. Consequential action in regard to auction shall be conducted only with the liberty of this Tribunal and a report to that effect shall be submitted by the liquidator on the next date of hearing.”

3. In pursuance of the Order of the Adjudicating Authority, e-Auction has already been taken place on 14.02.2023 and the Liquidator has submitted its report and the matter is still pending consideration before the Adjudicating Authority regarding e-Auction held on 14.02.2023.

4. Learned Counsel for the Appellant raised various submissions in this Appeal including that shares as well as Tejpur Land does not belong to the Liquidation Estate of the Corporate Debtor and it should not have been auctioned. He further submitted that Applications being I.A. No. 850, 380, 386 of 2021 are still pending which were preferred by the Liquidator hence the Adjudicating Authority ought not to proceed with approval of the auction till these Applications are decided.

5. The order passed in the Application filed by the Appellant as noted in paragraph 23 was refusal of the Adjudicating Authority to restrain the Liquidator from proceeding with the Auction however the Order itself clearly indicated that consequential action with regard to auction shall be conducted only with liberty of the Tribunal. When Tribunal has reserved its right with regard to further proceeding in the Auction, we see no reason to enter into

various issues raised by the Appellant in this Appeal and return any finding. It is open for the Appellant as well as Respondents herein to raise their submissions before the Adjudicating Authority with regard to auction held on 14.02.2023 and it is for the Adjudicating Authority to consider and take appropriate decision in accordance with law. It is also open for the Appellant to pray the Adjudicating Authority to decide application as stated by Appellant. We see no reason to issue any direction.

This Appeal is disposed of, accordingly.

[Justice Ashok Bhushan]
Chairperson

[Mr. Barun Mitra]
Member (Technical)

Basant/nn