

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

Comp. App. (AT) (Ins.) No. 365 of 2022

In the matter of:

Arun Kumar Jain, Ex-Director, M/s. P. K. Industries Pvt. Ltd.Appellant

Vs.

Rakesh Bhatia (Liquidator of M/s. P. K. Industries Pvt. Ltd.) ...Respondent

For Appellant: Mr. Manan Batra, Advocate.

For Respondent: Mr. Sunder Khatri, Advocate for Liquidator

ORDER

(Through Virtual Mode)

05.04.2022: Heard Learned Counsel for the Appellant.

2. This Appeal has been filed against the order dated 24.03.2022 passed by the Hon'ble President of the NCLT transferring the CP. No.-(IB) 435(ND) of 2017 from NCLT Bench-III to NCLT Bench-II to tag with CP. No.-(IB) 415 (ND) of 2017 and CP. No.(IB) 417 (ND) of 2017. CP. No.-(IB) 415 (ND) of 2017 and CP. No.(IB) 417 (ND) of 2017 were listed before the Bench-II. The liquidator filed an Application that CP. No.-(IB) 435(ND) of 2017 may also be tagged with CP. No.-(IB) 415 (ND) of 2017 and CP. No.(IB) 417 (ND) of 2017. The President passed the order allowing the prayer and request of the Ex-Director to postpone the hearing was declined.

3. Learned Counsel for the Appellant submits that he was only asked for pass over which was declined.

4. Learned Counsel for the Appellant submits that the order was passed for transferring from Bench-III to Bench-II which is not in accord with Rule 146 of the NCLT Rules, 2016. Rule 146 of the NCLT Rules is as follows:

“146. Disposal of Cases.- *On receipt of an application, petition, appeal etc, the Tribunal, after giving the parties a reasonable opportunity of being heard, pass such orders thereon as it thinks fit: Provided that the Tribunal, after considering an appeal, may summarily dismiss the same, for reasons to be recorded, if the Tribunal is of opinion that there are no sufficient grounds for proceedings therewith.”*

5. The power which has been exercised by the President is under Rule 16 (d) of the NCLT Rules, 2016. Rule 16 of the NCLT Rules provides as follows:-

“Functions of the President.- *In addition to the general powers provided in the Act and in these rules the President shall exercise the following powers, namely:-*

(a) preside over the consideration of cases by the Tribunal;

(b) direct the Registry in the performance of its functions;

(c) prepare an annual report on the activities of the Tribunal;

(d) transfer any case from one Bench to other Bench when the circumstances so warrant;

(e) to withdraw the work or case from the court of a member.

(f) perform the functions entrusted to the President under these rules and such other powers as may be relevant to carry out his duties as head of the Tribunal while exercising the general superintendence and control over the administrative functions of the Members, Registrar, Secretary and other staff of the Tribunal”

6. It is prerogative of the President of NCLT to assign a matter to a particular Bench or tag with any other matter. The power under Rule 16(d) has been exercised by the President. We do not find any merit in the submissions of the Counsel for the Appellant that the order is passed under Rule 146 and opportunity is required to be given before passing the order tagging the case with other two matters. Present is not a case where power has been exercised under Rule 146. The power has been exercised by the President under Rule 16(d). We, thus, are of the view that the submission of the Appellant that he was entitled for opportunity under Rule 146 before disposal of the Application does not have any merit.

7. We do not find any ground to interfere with the impugned order of the President by which the CP. No.-(IB) 435(ND) of 2017 has been tagged with

other two IBs which are listed in Court-II and relate to sister concern of Appellant. The Appeal is dismissed.

**[Justice Ashok Bhushan]
Chairperson**

**[Dr. Alok Srivastava]
Member (Technical)**

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

Anjali/nn