

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
CHENNAI BENCH

(APPELLATE JURISDICTION)

Company Appeal (AT) (CH) (Ins) No.378/2025
(IA No.1119/2025)

IN THE MATTER OF:

1. Mr. Srinivas Kalluri,
16-11- 16/1/B, Saleem Nagar,
Malakpet, Hyderabad - 500 036,
Telangana.

2. Mrs. Rajani Kalluri,
represented by Mr. Srinivas Kalluri,
16-11- 16/1/B, Saleem Nagar,
Malakpet, Hyderabad - 500 036,
Telangana.

....Appellants

Vs

1. Mr. Birendra Kumar Agarwal,
RP of M/s. Manjeera Retail Holdings Private Limited
#711, Manjeera Trinity Corporate,
Beside Manjeera Mall, JNTU-Hitech
City Road, Kukatpally, Hyderabad,
Telangana – 500 072.

2. Monitoring Committee of M/s. Manjeera
Retail Holdings Private Limited
#711, Manjeera Trinity Corporate,
Beside Manjeera Mall, JNTU-Hitech City Road,
Kukatpally, Hyderabad, Telangana - 500 072.

3. M/s. Lulu International Shopping Malls
Private Limited,
34/1000, NH-47, Edappally,
Kochi – 682 024, India.

....Respondents

Present:

For Appellants : Mr. Arun C Mohan, Advocate

WITH

Company Appeal (AT) (CH) (Ins) No.380/2025
(IA No.1122/2025)

IN THE MATTER OF:

**Ms. Gorinka Pratyusha,
1806, Polaris,
B wing, Meenakshi Skylaunge, Hitex Road,
Khanamet, Hyderabad - 500 084**

....Appellant

Vs

**1. Mr. Birendra Kumar Agarwal,
Resolution Professional of M/s. Manjeera
Retail Holdings Private Limited
#711, Manjeera Trinity Corporate,
Beside Manjeera Mall, JNTU-Hitech City
Road, Kukatpally, Hyderabad,
Telangana – 500 072.**

**2. Monitoring Committee of M/s. Manjeera Retail
Holdings Private Limited
#711, Manjeera Trinity Corporate,
Beside Manjeera Mall, JNTU-Hitech City Road,
Kukatpally, Hyderabad, Telangana – 500 072.**

**3. M/s. Lulu International Shopping Malls
Private Limited,
34/1000, NH-47, Edappally,
Kochi – 682 024, India.**

....Respondents

Present:

For Appellant : Mr. Arun C Mohan, Advocate

**JUDGMENT
(Hybrid Mode)**

[Per : Justice Sharad Kumar Sharma, Member (Judicial)]

These two Company Appeals are accompanied with Condone Delay Application, being **IA No.1119/2025** and **IA No.1122/2025**, respectively, where the Appellant has sought a condonation of 16 days of delay that, has chanced in preferring the Appeal. The reason for delay has been explained by the Appellant in para 3 of the Application, contending thereof that, they have filed the Application for getting the Certified Copy on 28.03.2025, as the same was

received only on 01.04.2025 and they have e-filed the Company Appeal on 11.05.2025 that is well within the upper limit as prescribed under the proviso to Sub-Section (2) of Section 61 of the I & B Code, 2016. Hence, the delay that has chanced in preferring the Company Appeal would stand condoned. Accordingly, the Condone Delay Application, being **IA No. 1119/2025 & IA No.1122/2025**, would stand allowed. We proceed to hear the Learned Counsels on the merits of the Appeal.

2. Before we venture into the intricate question of law, we consider it to be necessary to precisely deal with the factual controversy, as it engages consideration in these two Company Appeals. i.e., **Comp App (AT) (CH) (Ins) No.378/2025 & Comp App (AT) (CH) (Ins) No.380/2025**, the Company Appeals, which has been preferred by the Appellants by invoking the provision contained under Section 61 of I & B Code, which is to be read with Section 19 of the Contempt of Courts Act, 1971. The Appellants, in these two Company Appeals have raised their cause being aggrieved as against the impugned order dated 26.03.2025, as it had been respectively passed in the Company Petitions, in Contempt Petition No.8/2025 and Contempt Petition No.6/2025, respectively, that were emanating from the proceedings of Company Petition (IB) No.296/2022. The resultant effect of the impugned order had been that the Contempt Petition, which had been preferred under “Section 425 of the Companies Act, 2013 r/w Section 2 (A) (B) & C of Contempt of Courts Act,

1971, Section 60(5) of the Insolvency & Bankruptcy Code, 2016 r/w Rule 11 of NCLT Rules, 2016”, has been dismissed.

3. Holding thereof that, owing to the status of the Applicants to the Contempt Proceedings, where the Appellants herein have claimed to have purchased the respective units of immovable property under an agreement for sale from the Corporate Debtor, which was portrayed to have been leased out to them, including the two units, that were agreed to be sold to M/s. Lulu International Shopping Mall Private Limited. Admittedly, the Sale Deed of the Properties covered by the agreement for sale, could not be executed because of a dispute between the Telangana State Housing Board and M/s. Manjeera Retail Holdings Private Limited (Corporate Debtor), which is an issue said to be pending consideration before the Hon’ble Apex Court.

4. The Tribunal observed that for the purposes of making out an allegation of contempt as it was prayed in the aforesaid backdrop, wherein the Appellants have contended that, the Successful Resolution Applicant, i.e., Respondent No.3 herein, vide their email communication on 18.06.2024 & 28.06.2024 respectively, had observed that the name of Srinivas Kalluri and the amount that was advanced by him as it stood reflected in the Trial Balance Report of the Corporate Debtor under the head “Advance from Customers”, that was shared with us as part of the Information Memorandum and it related data/annexures, which was also the stand taken by the Applicant/Appellant before the Learned NCLT.

5. It was observed, in the email communication that, the interest upon the successful completion of the CIRP and the revival of the Corporate Debtor on a clean slate basis, without admission of their ownership, and the acknowledged contention that found to be part of the Applicants pleadings in IA No.384/2024 & 492/2024 and Intervention Application No.12/2024, with respect to units allegedly purchased by them under an agreement for sale being unit No.26, 27 & 36 respectively, which were lying on the second floor of Manjeera Mall, which were alleged to have been made as subject to the registered lease deed already executed by the Corporate Debtor in their favour.

6. The Applicants, to the Contempt Petition, claimed that the Respondent, had not incorporated the details, pertaining to the units allegedly belonging the Applicant based on agreement for sale in the Information Memorandum, as per the directions of the authority, and contended that the information, which was supplied to them by the Respondent was incomplete and they did not comply with the order of the Learned Adjudicating Authority, and therefore the Applicant to Contempt Petition in response to it are said to have send an email communication of 06.11.2024 & 29.10.2024 (Annexure 4 & Annexure 3 respectively to the application), requesting the Respondent to update the Information Memorandum, on the pretext that, they have claimed that, they have purchased the unit under an agreement for sale, and further that, the rent payments are due. But since no reply has been received. Consequently, the Applicants/Appellants, in the two Company Appeals have come up with a case that the Respondents have

deliberately and willfully violated the orders that, were passed on 11.06.2024 & 17.09.2024 that, was issued by the authority, and therefore they have prayed for the following relief: -

“In light of the above circumstances, the Applicants have claimed that the Respondents have deliberately and willfully violated/disobeyed the Orders dated 11.06.2024 issued by the Authority and therefore prays for the following reliefs:

- i. Pass an order punishing the Respondent for committing wilful disobedience and breach of Order dated 11.06.2024 of this Hon'ble Tribunal; and*
- ii. Consequently, pass an order directing the Respondent/ Resolution Professional to remedy the violation of order dated 11.06.2024 passed in I.A.No.384 of 2024 and thereby include the liabilities etc., of the Corporate Debtor towards the Applicants in information memorandum as prayed by the Applicants in IA No.384 of 2024 and allowed by this Hon'ble Tribunal; and*
- iii. Pass such other orders/directions, which the Hon'ble Tribunal deems fit and proper in the facts and circumstances of the present case”.*

[In the case of connected Company Appeal (AT) (CH) (Ins) No.380/2024, the date mentioned in relief prayer 1 as 11.06.2024 is to be read as 17.09.2024].

7. The aforesaid relief that, was sought for in the Contempt Proceedings was contested by the Respondents, observing thereof that the relevant directions that were contained in the orders in relation to the inclusion of the liabilities of the Corporate Debtor, the necessary information was already disclosed to the Appellants in the financial statement, which formed to be part of the annexures,

as contained in the Information Memorandum and that the allegation of contempt was not made out. For the aforesaid purpose to carve out, and to applicants arguments, as to whether at all the contempt is made out or not, it becomes relevant for us to consider, as to what was the exact direction that, was issued by the order of 11.06.2024 and 17.09.2024. In each of these Company Appeals, particularly the two orders, as referred to herein above, the directions, which were issued by the Learned NCLT, Hyderabad Bench, were verbatim common and the same, hence for the purposes of brevity, one of them is extracted hereunder: -

“34. Thus, the Resolution Professional must collect relevant information which may affect the decision making of the prospective resolution applicants or other stakeholders. Discharge the liability of the Corporate Debtor towards the original buyer and Applicant is definitely relevant information and therefore, the RP was supposed to make it part of the Information Memorandum.

35. In the light of the observations and discussions, we find that the information about the liabilities, debts, delegation etc. of the CD is to be included in the Information Memorandum so that every stakeholder may have proper appreciation of the financial strength of the CD. Therefore, the Respondent is directed to include the liabilities of the CD towards the original buyer and the Applicant in Information Memorandum and if it is already included, the Applicant has to be informed within 15 days from passing of the order”.

8. In accordance with the directions that were given in the above said paragraph, while deciding the IAs, which were subject matter of consideration in the orders that were passed on 11.06.2024 and 17.09.2024, respectively. In fact, it contained a direction that the Respondents therein were directed to include the

liabilities of the Corporate Debtor, towards the Applicants also in the Information Memorandum. If it is already included, the Applicant will be informed within 7 days from the date of passing of the order.

9. The question which ultimately emerges for consideration, from a legal perspective, is

“As to whether at all such type of direction, which is issued on an Interlocutory Application, can at all be brought within an ambit of contempt, in the light of the provision contained under Section 425 of the Companies Act, which attracts the applicability of the provision of Contempt of Courts Act, 1971?

The Learned Tribunal, while dealing with the aforesaid issue, had taken a view that, for the purposes of making out a case for contempt, and particularly a contempt which is of a civil nature, it has to be established beyond doubt that there is a deliberate and intentional disregard to the orders passed by the Tribunal.

10. It was observed that, so far as the disclosure of the aforesaid liabilities in the financial statement of the Corporate Debtor, is broadly in the spirit of the orders dated 11.06.2024 and 17.09.2024, though a marginal distinction, sought to be made by the Appellant, is that, the inclusion of the said information in the financial statement was insufficient. In such a case the question would be;

“Whether insufficient disclosures of information that was ordered to be disclosed will amount to be a non-compliance, to be taken as to be the basis for drawing a contempt”.

The Tribunal observed that supplying of an incomplete information in the light of the directions that, were issued by the order of 11.06.2024 and 17.09.2024, if at all it was a partial supply of information, as it has been observed in the impugned order on the allegation that the information supplied was insufficient, that will not be bringing an act of the alleged contemnor, to be within an act of civil contempt because of lack of establishment of the deliberate and intentional violation of the orders dated 11.06.2024 and 17.09.2024. The Tribunal, while drawing the aforesaid inference and particularly dealing with the legal status, as to what the Appellant enjoyed, on the basis of the agreement for the sale, in relation to the property.

11. It was observed that since in the absence of there being a Registered Sale Deed executed under Section 17 of the Registration Act, the Appellant's enforcement of right only depends up on the decision to be taken, in the pending proceedings if any, for the enforcement of the Agreement of Sale, which will be falling specifically within the domain of the Civil Court, by filing of a suit for specific performance. The Tribunal further took into consideration of the fact that, the Respondent did express their liabilities in the Trial Balance Report of the Corporate Debtor, under the head "Advances from Customers", and the Successful Resolution Applicant, had also admitted his liability towards the applicant in the Trial Balance Report, but the Learned Tribunal ultimately found that, since there being lack of sufficiency of the information supplied, that itself will not amount to be a contempt because when it lacks to establish deliberate

violation of complying with the directions given in the order of 11.06.2024 and 17.09.2024 respectively. It will not amount to be a contempt to be proceeded with as per Rules framed under Contempt of Courts Act of 1971, and accordingly the contempt has been rightly rejected by the impugned order of 26.03.2025, as rendered respectively in each of the two Company Appeals.

12. Coming to the legal perspective, the powers of drawing a contempt proceedings under the Companies Act, are the provisions, which has been specifically contained under Section 425 of the Companies Act, 2013. On reading of the provisions contained under Section 425 of the Companies Act, 2013. Section 425, independently in itself, is not a complete provision, because the same has attracted the application of the provisions contained under the Contempt of the Courts Act, 1971, by way of “legislation by incorporation”. Legislation by way of incorporation, herein would mean that Section 425 of the Companies Act, in itself, independently will have no existence in its effective applicability, until or unless the same is complete in its applicability by attracting the provision contained under the Contempt of Courts Act, 1971. If the provision of the Contempt of Courts Act are taken into consideration along with the rules framed thereunder, for any act of established and intentional disobedience of an order, with the deliberate intent of non-compliance, it has to be first tested to be established as per procedure under rules framed under Act of 1971, which will ultimately result into the penal clause by providing for a punishment of six months of civil imprisonment as per Section 12 of the Contempt of the Courts

Act, 1971. There is no other way out or any exception which has been carved out under the provisions of the Contempt of Courts Act, 1971, for enforcing and ensuring compliance of an order, which has been deliberately not complied by the alleged contemnor, meaning thereby as per Section 12 of the Contempt of Courts Act, 1971, the only action, which has been contemplated to be taken for any established, deliberate violation of an order, is a punishment as provided under Section 12 of the Contempt of Courts Act, 1971 for a civil contempt. The provision itself becomes penal in nature. But, unfortunately, for the reason best known to the framers of law, the provisions contained under Section 425 of the Companies Act, 2013, conferring the power to initiate a contempt, is not a power which has been prescribed to be given under the provisions of I & B Code.

13. In that eventuality, the question which will emerge for consideration would be, “ As to whether at all for any act of non-compliance of an order passed in any proceedings, which are carried under the provisions of I & B Code, whether the contempt proceedings, itself could be drawn, when under the I & B Code, itself the attraction of the provision of the Contempt of Courts Act, 1971, to be read with Section 425 of the Companies Act, 2013, has not been made either as a “legislation by way of reference or by incorporation?”. Because the entire I & B Code is silent on applying the provision contained under Section 425 of the Companies Act, 2013. Since the nature of proceedings contemplated under the Companies Act and under the I & B Code are absolutely independent with independent objective, and procedurally independent too. The powers of drawing

a contempt, for any act of violation of any order that has been passed under the I & B Code, could have only been attracted, only when the I & B Code itself, either “by way of incorporation” or “by way of reference”, so as to attract the application of provision contained under Section 425 of the Companies Act, 2013, to be read with the provision of the Contempt of Courts Act, 1971. Unfortunately, the provision of the Contempt of Courts Act, 1971, or the provision of Section 425 of the Companies Act, 2013, is not an incorporated legislation under the I & B Code. Hence, the debate, which would emerge for consideration, is as to whether at all the statutory authorities, dealing with the proceedings provided under the I & B Code, can at all draw a contempt proceedings? This issue is yet to be traversed by us in a bunch of matters, which is a subject matter of consideration.

14. The issue which would be more particularly considered in the instant Company Appeals are, even for the time being only (Exclusively for the purpose to decide the instant Company Appeal only). It may not be taken that as if we are concluding or dealing with the provision of the Contempt of Courts Act, 1971, and its applicability over the proceedings of the I & B Code, but exclusively limited to answer the two Company Appeals, these two Company Appeals are emanating from an order holding that, no deliberate or any act of intentional contempt is made out and in the absence of the same, since the Applicant have failed to make out a case of a civil contempt, the Contempt Petition was dismissed it is against this order of dismissal of contempt, the appeal has been filed. The

appeal in question has been titled to be read with Section 425 of the Companies Act, 2013, along with Section 19 of the Contempt of Courts Act. The provisions of Section 425 itself is not a self-contained appellate provision for any act of contempt. In that eventuality, we will have to borrow the appellate provision for drawing the contempt proceedings against the alleged contemnor, by attracting Section 19 of the Contempt of Courts Act, because otherwise there will be no way out to prefer an Appeal. Section 19 of the Contempt of Courts Act reads as under: -

“19. Appeals.—(1) An appeal shall lie as of right from any order or decision of High Court in the exercise of its jurisdiction to punish for contempt—

(a) where the order or decision is that of a single judge, to a Bench of not less than two Judges of the Court;

(b) where the order or decision is that of a Bench, to the Supreme Court :

Provided that where the order or decision is that of the Court of the Judicial Commissioner in any Union territory, such appeal shall lie to the Supreme Court.

(2) Pending any appeal, the appellate court may order that—

(a) the execution of the punishment or order appealed against be suspended;

(b) if the appellant is in confinement, he be released on bail;
and

(c) the appeal be heard notwithstanding that the appellant has not purged his contempt.

(3) Where any person aggrieved by any order against which an appeal may be filed satisfies the High Court that he intends to prefer an appeal, the High Court may also exercise all or any of the powers conferred by sub-section (2).

(4) An appeal under sub-section (1) shall be filed—

(a) in the case of an appeal to a Bench of the High Court, within thirty days;

(b) in the case of an appeal to the Supreme Court, within sixty days, from the date of the order appealed against”.

15. As per Section 19 of the Contempt of Courts Act, 1971, it only prescribes for that, appeal would lie from any order or decision of the Hon’ble High Court in the exercise of its jurisdiction **“to punish for contempt”**. At this juncture, we feel it apt to clarify that the order or decision under challenge has to be independently read. The impugned order would be an Interlocutory Order too, that was passed during the pendency of the main proceedings, and a decision would be a final adjudication of a lis. In the instant case, since it is a contempt emanating from the order that, was passed on an Interlocutory Application, it will be treated as to be an order for the purposes of Section 19 of the Contempt of Courts Act, 1971, but even for the purposes of sustaining an appeal under Section 19 of the Contempt of Courts Act, the appellate provision contemplated therein as extracted above, that it only prescribes for an appeal either against an order or against a decision, where a decision falls to be a decision within an ambit of Section 12 of the Contempt of Courts Act, 1971, that is, an order of punishment. If the appeal is filed as against the order simpliciter dismissing the contempt petition, no appeal would lie because there being a specific intention

of law of prescribing for an appeal, which is a creation of a statute, only as against an order of punishment, and no other exception has been safeguarded by the provision contained under Section 19 of the Contempt of Courts Act, 1971. Hence, for the present Company Appeals, since the order which has been challenged by invoking Section 19 of the Contempt of Courts Act, 1971, not being the order of punishment, appeal would not lie under Section 19 of the Contempt of Courts Act, 1971, which is to be read along with Section 425 of the Companies Act, 2013.

16. There could be yet another logic not to hold the appeal to be maintainable as against the order of dismissing the contempt and the logic is being derived from a settled principle that in a contempt proceedings the person complaining of any act of commission of an act of compliant of non-compliance of any order or decision that has been passed by the Court or a Tribunal, the Applicant therein only acts an informer and it only makes the tribunal/court, conscious of the fact that the order passed by the Tribunal or the Court, has been deliberately flouted and has not been complied or followed by the alleged contemnor. As soon as the application for contempt has been preferred, thereafter the issue of contempt stands confined to be continued between the alleged contemnor and the court itself whose order has been alleged to have been flouted. The Applicant as such has got no positive role to play in the proceedings because it will be exclusively between the domain of the Court or the Tribunal to maintain the magnanimity of its proceedings, by punishing a contemnor, after

the contempt, if the same has been established, as per the procedure prescribed under rules framed under the Contempt of Courts Act, 1971, and that is why since the contempt proceedings has been held to be a proceedings between the Court and the alleged contemnor after the same being filed by the Applicant. The contempt proceedings, since not being a proceedings in persona, being pursued by an Applicant, it is never dismissed in default; it has had to be decided on the merits even in the absence of the applicant to the Contempt Petition. Hence, owing to the aforesaid ground, though at this stage, we are not embarking upon the issue as to whether at all Section 425 of the Companies Act, 2013, or the provisions of the Contempt of Courts Act, 1971, will apply qua the proceeding contemplated under I & B Code or not, that is to be dealt with in the bunch of petitions, which we are already seized with. We are deciding this appeal exclusively on the ground that the nature of the order, which is being complained of, as it has been observed by the Tribunal, that there was no deliberate or intentional contempt, which could bring an act of the alleged contemnor, within an ambit of civil contempt to make Respondents liable to be punished as per Section 12 of the Contempt of Courts Act, 1971. No appeal under Section 19 of the Contempt of Courts Act, 1971, would be maintainable.

17. The Learned Counsel for the Appellant in an elaboration to his argument, has relied upon a Judgment that was rendered by this Tribunal in ***Comp App (AT) (CH) (Ins) No.438/2024 Pankaj Dhanuka vs Lanco Kondapalli Power Limited & Anr.***, and particularly the Learned Counsel for the

Appellant has drawn the attention of this Tribunal to the observation, which has been made by this Tribunal in the light of the Judgment reported in **2006 Volume 5 SCC Page 399, Midnapore Peoples' Cooperative Bank Ltd and Others vs Chunilal Nanda and Others**, and particularly he has referred to para 11 of the aforesaid Judgment, which has been extracted in the matter of Mr. Pankaj Dhanuka. In fact, if the said spirit of Judgment rendered in Midnapore Peoples' Cooperative Bank Ltd (supra) is taken into consideration it has prescribed for that, the Hon'ble High Court can decide whether any Contempt of the orders of Court has been committed or not, and if so, what should be the "Punishment" and matters incidental thereto. In para 11 of the aforesaid Judgment, it was observed as under: -

"III. In a proceeding for contempt, the High Court can decide whether any contempt of court has been committed, and if so, what should be the punishment and matters incidental thereto. In such a proceeding, it is not appropriate to adjudicate or decide any issue relating to the merits of the dispute between the parties.

IV. Any direction issued or decision made by the High Court on the merits of a dispute between the parties, will not be in the exercise of "jurisdiction to punish for contempt" and, therefore, not appealable under Section 19 of the CC Act. The only exception is where such direction or decision is incidental to or inextricably connected with the order punishing for contempt, in which event the appeal under Section 19 of the Act, can also encompass the incidental or inextricably connected directions".

18. It was once again as prescribed for that, any decision taken by the Tribunal will not be appealable under Section 19 of the Contempt of Courts Act,

1971 if it is any order other than the order of punishment under Section 12 of the Act of 1971. The aforesaid Judgment of Midnapore Peoples' Cooperative Bank Ltd. was once again considered by the three-judge bench of the Hon'ble Apex Court in the matter of **Civil Appeal Nos.8129-8130/2024 in Ajay Kumar Bhalla and Ors. vs Prakash Kumar Dixit**. In the said matter, while referring to para 11 of Midnapore Peoples' Cooperative Bank Ltd., the Hon'ble Apex Court has observed as under: -

"14. Following the decision in Midnapore People's Coop. Bank Ltd., it is a settled principle that an appeal under Section 19 lies only against an order imposing punishment for contempt.

18. The Division Bench has lost sight of this aspect. The Division Bench, the paragraph 52, noted the submission of the respondent that the Judgment of the Single Judge should not be construed as crystalizing any right in favour of the respondent and should only be confined to the question as to whether the appellants herein had committed a willful disobedience of the order of the Division Bench dated 24 December 2019. The Division Bench accepted this submission and observed that "in view of our understanding of the impugned judgment, as noted above, the learned Single Judge has not decided any dispute regarding the rights and obligations of the parties" other than adjudicating on the issue of contempt. The judgment of the Division Bench lost sight of the fact that whether the appeal was maintainable would have to be construed on a plain reading of the judgment of the Single Judge. Two aspects were covered by the judgment of the Single judge:

Firstly, a finding that the appellants were guilty of contempt of the order dated 24 December 2019; and

Secondly, that the respondent was entitled to promotion to the rank of IG.

The first aspect is not amenable to an appeal under Section 19 at the present stage. The finding that the respondent was entitled to promotion to the rank of IG would be amenable to an appeal in terms of the law laid down by this Court in Midnapore Peoples' Coop. Bank Ltd. (supra), more particularly in paragraph 11(V) which has been extracted above”.

19. Wherein, it has been held that the Appeal would not be maintainable. A similar issue was under consideration in the Judgment reported in **1996 Volume 4 SCC Page 411, State of Maharashtra Vs Mahboob S. Allibhoy and Another**, wherein the Hon’ble Apex Court has considered the aforesaid aspect in para 4 dealing with the question of maintainability, has made the following observations: -

“4. It is well known that contempt proceeding is not a dispute between two parties, the proceeding is primarily between the court and the person who is alleged to have committed the contempt of court. The person who informs the court or brings to the notice of the court that anyone has committed contempt of such court is not in the position of a prosecutor, he is simply assisting the court so that the dignity and the majesty of the court is maintained and upheld. It is for the court, which initiates the proceeding to decide whether the person against whom such proceeding has been initiated should be punished or discharged taking into consideration the facts and circumstances of the particular case. This Court in the case of Baradakanta Mishra v. Justice Gatikrushna Misra, C.J. of the Orissa H.C. [(1975) 3 SCC 535: 1975 SCC (Cri) 99 : AIR 1974 SC 2255 : (1975) 1 SCR 524] , said: (SCC p. 542, para 7)

“...Where the court rejects a motion or a reference and declines to initiate a proceeding for contempt, it refuses to assume or exercise jurisdiction to punish for contempt and such a decision cannot be regarded as a decision in the exercise of its jurisdiction to punish for contempt. Such a decision would not, therefore, fall within the opening words of Section 19, sub-section (1) and no appeal would lie against it as of right under that provision.””

20. For the aforesaid reasons, the exclusively limited from the point that since impugned order happens to be a dismissal of a contempt and particularly the ratios as it has been laid down in ***Midnapore Peoples’ Cooperative Bank Ltd., & Ors. Vs Chunilal Nanda & Ors.*** in ***Ajay Kumar Bhalla Vs Prakash Kumar Dixit*** matter has considered by the Hon’ble Apex Court in the light of the Judgment which we had an occasion to deal with in the matters of ***Pankaj Dhanuka Vs Lanco Kondapalli Power Limited***, we hold that, as against the order of dismissal of a contempt petition, the Appeal as prescribed under Section 19 of the Contempt of Courts Act, 1971, would not be maintainable. Accordingly, the Company Appeals are dismissed, holding that the orders under the challenge are not appealable orders under Section 19 of the Contempt of Courts Act, 1971.

[Justice Sharad Kumar Sharma]
Member (Judicial)

[Jatindranath Swain]
Member (Technical)

15.10.2025
VG/MS/AK