

National Company Law Appellate Tribunal, New Delhi
Principal Bench

Contempt Case (AT) No. 18 of 2020
in
Company Appeal (AT)(Ins.) No. 1155 of 2019

IN THE MATTER OF:

Mr. Ashutosh Jain

Insolvency Professional

IBBI/IPA-001/IP-P00394/2017-18/10712

A-120, Lower Ground Floor –

Shivalik, Malvia Nagar,

New Delhi - 110017

...Applicant

Vs.

1. Morpheus Developers Pvt. Ltd.

Registered Office at 1st Main Road, Maujpur

New Delhi – 110053

GH-16A, West, Sector 1, Greater Noida,

Uttar Pradesh – 201306

Info_infotech@yahoo.co.in

2. Mr. Prithvi Raj Kasana

1st Main Road, Maujpur,

New Delhi – 110053

Prithvikasana@gmail.com

3. Mr. Mohd Atiqur Rahman

1st Main Road, Maujpur,

New Delhi – 110053

Atiqurrahman1989@gamil.com

4. Mr. Sandeep Kumar Bhatt

Insolvency Professional

IBBI/IPA-003/IP-00007/2016-17/1032

F-103, DAV Complex,

Opposite Samachar Apartment,

Mayur Vihar, Phase – 1, New Delhi

110091

skbmica@gmail.com

...Respondents/Contemnors

Present:

For Applicant: Ms. Nikita Barman, Advocate
For Respondent: Mr. Mohit Nandwani, Advocate for R4

With

Contempt Case (AT) No. 26 of 2020

in

Company Appeal (AT)(Ins.) No. 1155 of 2019

IN THE MATTER OF

Mr. Sandeep Kumar Bhatt

Insolvency Professional
 IBBI/IPA-003/IP-00007/2016-17/1032
 F-103, DAV Complex,
 Opposite Samachar Apartment,
 Mayur Vihar, Phase – 1, New Delhi
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3. Mr. Mohd Atiqur Rahman

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 New Delhi – 110053
Atiqurrahman1989@gamil.com

...Respondents/Contemnors

Present:

For Applicant: Mr. Mohit Nandwani, Advocate
For Respondent:

ORDER
(10th August, 2021)

Jarat Kumar Jain: J.

The Applicants “Mr. Ashutosh Jain erstwhile IRP and Mr. Sandeep Kumar Bhatt erstwhile RP” have filed these Contempt Applications under Section 425 of the Companies Act, 2013 against the Respondents “Corporate Debtor Company and its Directors”.

2. Brief facts of these Contempt Applications are that one Mr. Kapil Arora filed an Application under Section 7 of the IBC against the Morpheus Developers Pvt. Ltd. (Corporate Debtor) which was admitted vide order dated 12.02.2019. That order has been challenged by Mr. Prithviraj Kasana, Shareholder and Director of the Corporate Debtor in CA (AT) (Ins) No. 211 of 2019. During the pendency of this Appeal, the settlement has been reached between the Directors and the Financial Creditors (Allottee). On 04.06.2019 the parties have filed terms of the settlement before this Appellate Tribunal, and the settlement has taken on record.

3. So far as the fee of the IRP/RP and the costs of the CIRP is concerned the matter was remitted to the Adjudicating Authority, Principal Bench, New Delhi to determine the claim and fix the fee payable to the IRP/RP and the CIRP Costs payable to one or other IRP/RP. On such determination, the amount has to be paid by the Corporate Debtor “Morpheus Developers Pvt. Ltd.” within a period as may be prescribed by the Adjudicating Authority.

4. In this background the Adjudicating Authority (National Company Law Tribunal, Principal Bench, New Delhi) has passed the order on 18.09.2019 which is as under:-

“The IRP has raised the bills of cost incurred during the period 12.02.2019 to 03.04.2019 amounting to Rs. 6,90,310/- and the CIRP costs till the order passed by the NCLT on 04.06.2019 alongwith balance amount of Rs. 13,90,000/-. The Non – Applicant-Respondents are directed to pay the aforesaid costs within a week. List for further consideration on 26.09.2019.”

5. Against the aforesaid order Morpheus Developers Pvt. Ltd. filed Appeal CA(AT) (Ins) No. 1155 of 2019. On 11.11.2019 when this Appellate Tribunal has taken up the matter for hearing, Ld. Counsel for the Appellant sought permission to withdraw the Appeal with the prayer to allow the Appellant to pay the total amount by 02nd December, 2019. The prayer was allowed without any liberty to challenge the same very impugned order dated 18th September, 2019 before this Appellate Tribunal. The Appeal was disposed of as withdrawn and allowing the Appellant ‘Morpheus Developers Pvt. Ltd.’ to pay the total amount to the RP towards the fee and cost by 2nd December, 2019.

6. After disposing of the aforesaid Appeal CA (AT) (Ins) No. 1155 of 2019 on 11.11.2019 Respondents herein ‘Morpheus Developers Pvt. Ltd.’ have not paid IRP/RP fees and CIRP costs till 02.12.2019. Therefore, the IRP Mr. Ashutosh Jain and RP Mr. Sandeep Kr. Bhatt have filed these Contempt Applications on 19.6.2020 and 24.07.2020 respectively.

7. In both Contempt Applications, we have issued notice to the Respondents. In Contempt Case (AT) No. 18 of 2020, the Respondent No. 4 Mr. Sandeep Kr. Bhatt, who is Applicant in Contempt Case No. 26 of 2020 has filed the Reply and prayed that the Contempt Application may be dismissed against him. However, the Respondent Nos. 1 to 3 Morpheus Developers Pvt. Ltd. and Director Mr. Prithviraj Kasana and Md. Atiqur

Rahman have not filed any reply in both the Applications after granting many opportunities.

8. On 20.07.2021 it is informed that the Respondent Nos. 1 to 3 have paid Rs. 5 Lacs to Mr. Sandeep Kr. Bhatt. However, they have not complied the order in its entirety and also not paid any amount to IRP.

9. We have heard Ld. Counsels for the Applicants. However, nobody gave appearance on behalf of the Respondent Nos. 1 to 3.

10. We are of the view that the Respondent Nos. 1 to 3 are deliberately avoiding to comply the order passed by the Adjudicating Authority on 18.09.2019, therefore, we direct the Ld. Adjudicating Authority to register the Contempt Case against the Respondent Nos. 1 to 3 and proceed against them as per law. Thus, the Contempt Applications are disposed of.

The parties are directed to remain present before the Adjudicating Authority (NCLT, Principal Bench, New Delhi) on 01.09.2021 for further proceedings.

The Registry is directed to send the copy of this order to the concerned Adjudicating Authority forthwith.

[Justice Jarat Kumar Jain]
Member (Judicial)

[Dr. Ashok Kumar Mishra]
Member (Technical)

New Delhi
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