

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Ins.) No. 109 of 2023

IN THE MATTER OF:

Tirupati Conductors Pvt. Ltd.

....Appellant

Vs.

SR Associates Infrastructure Pvt. Ltd.

....Respondent

Present:

For Appellant: Mr. Saswat K. Acharya, Mr. Dhananjay B. Ray, Advocates

For Respondents: Mr. Divyansh Tiwari, Ms. Diksha Dadu, Advocates.

O R D E R

30.05.2023: This appeal has been filed against the order of Adjudicating Authority dated 25.10.2022 by which order application filed under Section 9 by the Appellant has been dismissed on the ground that the principle amount due is only Rs. 34,98,140/- which is below the threshold. Learned Counsel for the Appellant had submitted that application in the NCLT was filed on 19.03.2020 which submission was noticed in order dated 10.05.2023 on which date we have passed following order:

“Learned Counsel for the Appellant submits that in the Rejoinder Affidavit he has filed the copy of the documents of the NCLT, Cuttack Bench by which it is clear that he has filed the application on 19.03.2020.

He submits that in view of the application having been filed on 19.03.2020, the threshold shall be only Rs. One lakh.

Learned Counsel for Respondent seeks time to file his reply.

Let additional reply be filed within one week.

List this appeal on 30.05.2023.

The appeal may be disposed of on the next date.”

2. When the case was taken today, Learned Counsel for the Respondent submits that they do not propose to file any Reply.

3. Learned Counsel for the appellant in the Rejoinder Affidavit has brought on the record the proof of filing of the application on 19.03.2023. Annexure A to the Rejoinder indicates that receipt was issued by the NCLT where date of filing is noticed at 19.03.2020. Application having been filed on 19.03.2020 threshold of Rs. 1 crore which came into operation with effect from 24.03.2020 is not attracted and the application with due amount of Rs. 34,98,140/- was fully maintainable.

4. We, thus, are of the view that rejection of the application on the ground of threshold is unsustainable. The order impugned is set aside and the C.P. (IB) No. 6/CB/2021 is revive before the Adjudicating Authority to be heard and decided in accordance with law.

5. Learned Counsel for the Respondent submits that respondent is ready to make the payment to the appellant. It is open for the Respondent to make the payment and bring it into the notice of the Adjudicating Authority of the payment.

6. With these observations, the appeal is disposed of.

**[Justice Ashok Bhushan]
Chairperson**

**[Mr. Naresh Salecha]
Member (Technical)**

sa/nn