

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
AT CHENNAI
(APPELLATE JURISDICTION)

Company Appeal (AT) (CH) (Ins) No. 100/2023
(IA Nos. 343, 344/2023)
(Filed under Section 61 of the Insolvency and Bankruptcy Code, 2016)

Arising out of the Impugned Order dated 27/02/2023 in
IA/307(CHE)/2023 in IBA/617/2020, passed by the ‘Adjudicating
Authority’, National Company Law Tribunal, Division Bench,
Chennai)

In the matter of:

Raj Hari Eswaran	...Appellant
V	
Ravindra Chaturvedi	Respondent

Present :

For Appellant	:	Mr. T K Bhaskar, Mr. Pranav G, Mr. Mayan H Jain and Ms. Niveditha Narayanan, Advocates.
For Respondent	:	Mr. Akhil Suresh, Mr. Jerin Asher Sojan, Advoctes.

(ORAL)
ORDER
(Virtual Mode)

[Per; Justice Rakesh Kumar Jain (JM)]

19/04/2023: This Appeal is directed against the Order dated 27.02.2023, by which, an Application filed by the Resolution Professional ('RP') bearing I.A. No.307/(CHE)/2023 under Section 19(2) of the Insolvency and Bankruptcy Code, 2016, (hereinafter referred to as 'The Code') before the National Company Law Tribunal, Division Bench, Court-I, Chennai, for certain directions has been allowed.

2. Counsel for the Appellant has submitted that the Application has been allowed by the Tribunal without issuing notice to the Respondents and thus violated the principle of natural justice i.e., *audi alteram partem*. In this regard he has relied upon a decision of this Tribunal rendered in the case of ***‘Rajasthan State Mines and Minerals Limited’ Vs. ‘Parag Sheth & Ors’, Company Appeal (AT) (Ins.) No. 170/2023***, decided on 17.02.2023.

3. On the other hand, Counsel for the RP has submitted that the impugned Order has been passed in consonance with the provisions of Section 19(1) of the Code as it is incumbent upon the Respondents to provide all the assistance to the RP.

4. It is further submitted that the other Respondent Nos. 2 to 5 have not raised any issue much less filed any Appeal and it is only the Respondent No.1 who has filed the Appeal against whom directions have been issued to provide balance information as mentioned at page 76 to page 80 of the IA to the RP within a period of 10 days from the date of the Order. In this regard, Counsel for the Appellant has submitted that all the information has already been given to the RP.

5. Be that as it may, the primary question in this case is as to whether the Impugned Order should have been passed without issuing Notice to the Respondents to file their Reply? In this regard, the matter is squarely covered by the decision rendered by this Tribunal in the case of ***‘Rajasthan State Mines and Minerals Limited’ (Supra)*** cited by the Counsel for the Appellant

in which it has been held that nobody should be condemned unheard and opportunity of hearing should have been granted. On this premise, we are satisfied with the argument of the Counsel for the Appellant, thus the present Appeal is hereby allowed, the Order dated 27.02.2023 is hereby set aside and the matter is remanded back to the Ld. Tribunal to decide it afresh after giving notice to the Respondents.

6. The Ld. Tribunal is directed to conclude the hearing especially in this Application within a period of one month from the date of appearance of the parties before it who shall cooperate with the Tribunal by filing the Reply immediately so that the direction in this Order is duly complied with.

7. With these observations, the present Appeal is allowed though without any order as to costs.

[Justice Rakesh Kumar Jain]
Member (Judicial)

[Shreesha Merla]
Member (Technical)

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