

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Ins.) No. 30 of 2024

(Arising against the impugned order dated 06.10.2023 passed by the Hon'ble National Company Law Tribunal, Jaipur Bench in I.A No. 522/JPR/2023 in CP (IB) No. 205/7/JPR/2019)

IN THE MATTER OF:

Jai Agarwal,

S/o Shri Manoj Agarwal,
Resident of Purana Bazar, Fatehnagar,
District Udaipur (Rajasthan).

...Appellant

Versus

Satyendra Prasad Khorania,

Liquidator of M/s Atlas Alloy (India) Private Limited,
R/o 402, OK Plus, D.P. Metro,
Opposite Metro Pillar No. 94, New Sanganer Road,
Jaipur (Rajasthan).

...Respondent No. 1

Punjab National Bank

through its Branch Manager, Beawar Branch,
situated at 482C-RF4, Diggi Mohalla,
Beawar, Rajasthan.

...Respondent No. 2

Novelty Textiles,

through Proprietor Mohammad Sharif
Registered Address: 1, Opp. Mamta Transport Company,
Ajmer Road, Beawar, (Rajasthan).
Email ID: empkhalid@rediffmail.com

...Respondent No. 3

Present:

For Appellant: Mr. Avin Chhangani, Advocate.

For Respondents: Mr. Naresh Kumar Sejvani, Advocate for R-3.

Mr. Amol Vyas, Liquidator.

Mr. Ankit Raj, Mr. Mohammed Khan, Advocates for R-2.

J U D G M E N T
(2nd September, 2025)

INDEVAR PANDEY, MEMBER (T)

This appeal has been filed by the Mr. Jai Agarwal/Appellant, under Section 61 of the Insolvency and Bankruptcy Code, 2016, being aggrieved by the impugned order dated 06.10.2023 passed by the Hon'ble National Company Law Tribunal, Jaipur Bench (Adjudicating Authority) in IA No. 522/JPR/2023 in CP (IB) No. 205/7/JPR/2019. The Appellant is an unsuccessful bidder in the e-auction of assets of M/s Atlas Alloy (India) Private Limited/ Corporate Debtor, which was under liquidation. Alleging irregularities, collusion, and unfair conduct on the part of the Liquidator Mr. Satyendra Prasad Khorania/ Respondent No. 1, in the conduct of the e-auction dated 06.09.2023, the Appellant approached the Adjudicating Authority seeking to set aside the auction. However, the Adjudicating Authority dismissed his application vide the impugned order. The Appellant has now approached this Appellate Tribunal against the impugned order.

Brief Facts of the Case

2. The brief facts of the case are as given below:
 - i. The Appellant, Jai Agarwal, is a young businessman, who participated in the auction proceedings of a property belonging to M/s Atlas Alloy (India) Private Limited/ Corporate Debtor (CD) under liquidation. Mr. Satyendra Prasad Khorania/ Respondent No.1 was appointed the Liquidator of the CD by the Adjudicating Authority upon initiation of liquidation

proceedings. The Punjab National Bank/ Respondent No.2 here is the financial creditor, which had instituted proceedings under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as 'Code') against the Corporate Debtor, which ultimately led to the liquidation order.

- ii. The Liquidator issued a public announcement dated 11.08.2023 stating that an e-auction would be conducted on 06.09.2023 for the sale of assets of the Corporate Debtor. The property to be sold was specified as land and building (including shed) situated at Plot Nos. G-78, G-79 and part of G-80, Industrial Area, Beawar, Rajasthan, measuring about 2990 sq. mts., on "as is where is and whatsoever is available basis."
- iii. The e-auction process document and terms and conditions were made available on the designated website on 14.08.2023 (The auction was being conducted online through the portal *ncltauction.auctiontiger.net*). The document laid down the complete schedule for the auction, including opening of the auction portal, site visits on 29.08.2023; last date for submission of eligibility documents on 29.08.2023; last date for submission of EMD and bid forms on 04.09.2023; the e-auction on 06.09.2023; and announcement of successful bidder on 07.09.2023.
- iv. As per the prescribed process, the Appellant submitted his bid documents along with the requisite earnest money deposit (EMD) to participate in the auction.
- v. The Appellant's father, Shri Manoj Agarwal, went to the Liquidator's office on 06.09.2023, the date of the auction for placing the bid on behalf of the Appellant as he was not very comfortable in use of IT systems. He sought

the assistance of Liquidator in placement of bids. The Appellant initially placed his first bid of Rs. 1,56,05,000/- at the commencement of the auction. The Appellant revised his bid upward by Rs.25,000/-, and at around 12:10 PM, the bid stood at Rs. 1,56,30,000/-. The Appellant remained the sole bidder almost during the entire period of the auction, until the last few minutes before the scheduled deadline of 3:00 PM.

- vi. Just before the close of bidding, a new second bid suddenly reflected on the auction portal, pushing the Appellant to the second position. The auction thereafter closed, and the newly bidder was declared as highest bidder (H-1) at Rs. 1,56,55,000/-, only marginally above the Appellant's last bid.
- vii. On 08.09.2023, the Appellant sent an e-mail to the Liquidator raising objections regarding the irregularities and malpractices in the conduct of the auction. The Liquidator, however, gave only a cryptic reply, without addressing the allegations in substance.
- viii. Subsequently, the Appellant filed IA No. 522/JPR/2023 before the NCLT, Jaipur, under Section 60(5) of the IBC, praying for quashing of the e-auction dated 06.09.2023; confirmation of the Appellant's bid; or in the alternative, re-auction of the assets.
- ix. The said application was heard by the Adjudicating Authority on 22.09.2023, when arguments were advanced by both sides. However, the Liquidator did not file a detailed reply to the Appellant's pleadings, but admitted that the Appellant's representative had visited his office on the date of auction and that his computer was used for handling the Appellant's bid account.

- x. The Adjudicating Authority, however, by its order dated 06.10.2023, dismissed the application of the Appellant. It held that the auction had been conducted as per the process document and that the Appellant had the opportunity to revise his bid but failed to do so within the stipulated time.
- xi. The Appellant, feeling aggrieved by the aforesaid order, initially filed a writ petition before the Hon'ble Rajasthan High Court, but subsequently withdrew it on 13.10.2023 to pursue the present statutory appeal before this Tribunal.
- xii. During the intervening period the Liquidator issued the letter of intent to the Successful bidder Novelty Textiles/ Respondent No.3 on 06.09.2023 with a direction to pay the balance amount of Earnest Money Deposit i.e. Rs. 23,53,250/- within 24 hrs and the balance amount of auction within 30 days i.e. by 06.10.2023 as per the provisions of the Code and Regulations thereto.
- xiii. The Respondent No.3 made the requisite payments within the schedule period and thereafter the sale deed for the property was registered on 17.10.2023.
- xiv. The appellant has sought quashing of the e-auction dated 06.09.2023; setting aside of the NCLT's order dated 06.10.2023; and a direction either to confirm the Appellant's bid or to conduct a fresh transparent auction in the interest of justice.

Submissions of the Appellant:

3. Learned counsel for the Appellant submits that the impugned order suffers from grave infirmities and has failed to appreciate the manifest illegalities committed by the Respondent-Liquidator in conducting the e-auction. The Appellant, who was the sole genuine participant throughout the e-auction period from 12:00 p.m. till almost the end of auction period, has been wrongfully deprived of his rightful claim. Counsel points out that the main object of liquidation under the Insolvency and Bankruptcy Code, 2016 (IBC) is maximization of value, but in the instant case, the Liquidator, acting in collusion with another party, introduced an unauthorized bidder at the eleventh hour in a non-transparent manner, thereby completely vitiating the sanctity of the process. Such conduct not only violates the letter and spirit of the IBC but also undermines public confidence in the liquidation mechanism.

4. Learned counsel submits that the sequence of events prior to and during the auction clearly reveal mala fide conduct on the part of Liquidator. On 11.08.2023, a public announcement was issued stating that an e-auction would be conducted on 06.09.2023. On 05.09.2023, one day prior to the auction, the Respondent-Liquidator personally contacted the Appellant and his father, Shri Manoj Agarwal, and informed them that since the Appellant was the sole bidder, all formalities would be completed swiftly, if the Appellant or his representative attended the office of the Liquidator on the date of the auction. Acting on this assurance, the Appellant's father attended the Liquidator's office. However, despite this assurance, during the course of the auction held on 06.09.2023 through the official portal

ncltaucti.auctiontiger.net, the Appellant continued to remain the only bidder till just before 3:00 p.m., revising his bid in increments of Rs. 25,000/- at the instance of the Liquidator and his staff. In the last few minutes, suddenly and without any prior intimation, another bid surfaced on the portal, creating serious suspicion of collusion and manipulation. Screenshots of the auction portal, placed on record, clearly demonstrate that the Appellant remained the only participant for the entire duration, until the questionable last-minute intervention.

5. Ld. counsel further submits that the Appellant promptly raised his grievances by way of an email dated 08.09.2023 to the Liquidator, protesting against the illegality and unfairness of the process. Instead of addressing the grievance transparently, the Liquidator furnished only a cryptic reply and deliberately avoided giving any satisfactory explanation, as to how another bid could suddenly appear at the last minute. Left with no option, the Appellant filed I.A. No. 522/JPR/2023 before the Learned Adjudicating Authority, praying for setting aside the tainted e-auction and seeking either confirmation of his bid or in the alternative, a direction for re-auction of the assets. The Appellant's I.A. was supported by documentary evidence, including screenshots, bid documents, and correspondence, all of which clearly demonstrated foul play by the Liquidator. Yet, the Adjudicating Authority dismissed the I.A. without properly appreciating this evidence. Learned Counsel submitted that the Liquidator did not even file a formal reply to controvert the Appellant's affidavit-supported pleadings in the said I.A., thereby admitting by silence the Appellant's allegations of impropriety.

6. Ld. counsel also pointed out that during oral arguments before the NCLT on 22.09.2023, as well as in his written submissions, the Respondent-Liquidator admitted that the Appellant's father had indeed visited his office on the date of the auction and that the Liquidator's own computer was used for handling the Appellant's bid. This extraordinary admission is fatal to the legality of the process. No provision of the IBC, Regulations, or auction terms empowers a Liquidator to permit his own computer system to be used by a bidder, as it compromises both confidentiality and transparency. Such a course of action itself renders the auction process unsustainable. Moreover, the introduction of another bidder at the last minute, without disclosure or verification, is a gross illegality that makes the process void ab initio. The Respondent's failure to adhere to statutory duties of fairness, transparency, and value maximization demonstrates not only dereliction but also possible collusion with the so-called H1 bidder, thereby subverting the very purpose of liquidation.

7. Learned counsel finally submits that the impugned order of the Adjudicating Authority, dated 06.10.2023, has resulted in grave miscarriage of justice. Instead of protecting the sanctity of the liquidation framework under the IBC, the NCLT has erroneously upheld a process tainted with illegality and collusion. The Appellant has approached this Appellate Tribunal in good faith, not only to safeguard his own rights as a bona fide bidder, but also to ensure that liquidation processes across the country remain transparent and above suspicion.

8. Summing up his arguments, Ld. Counsel has prayed that this Appellate Tribunal be pleased to (i) quash and set aside the e-auction dated 06.09.2023, (ii) confirm the Appellant's bid as the rightful successful bid, or in the alternative, (iii) direct the conduct of a fresh re-auction under the supervision of this Tribunal. Such relief is necessary to ensure justice, prevent abuse of process, and restore confidence in the liquidation mechanism envisaged under the IBC.

Submissions on behalf of Respondent No. 1 – Liquidator

9. Learned counsel for the Respondent No.1/Liquidator submits that it is the Appellant's case that he was the only bidder on 06.09.2023 at 3:00 PM, and that the Liquidator wrongfully introduced another bidder. Learned counsel submits that this contention is completely false and dehors the record. Another bidder, namely *M/s Novelty Textiles*, had duly deposited the Earnest Money (EMD) on 04.09.2023, well before the date of auction. This deposit stands verified from the bank statements, which were annexed along with the progress report filed by the Liquidator before the Ld. NCLT. Hence, the claim of the Appellant being the sole bidder is a concocted assertion, and the Appeal is founded on a false premise.

10. Learned Counsel further submits that the allegations that the Liquidator acted contrary to the Code of Conduct are baseless and devoid of merit. The entire Appeal is nothing, but a compilation of false statements by the Appellant. The Appellant has alleged that he logged into the bidding account from Udaipur at 2:59 PM, having been in the Liquidator's office shortly prior thereto. However, Page 92 of the Appeal Paper Book clearly

demonstrates that the Appellant had in fact logged into the e-auction platform from his own computer at 12:54 PM, much earlier in the day. Further, Page 53 of the Appeal Paper Book shows that the Appellant actually logged in at 2:57 PM and remained logged in until 3:06 PM. Thus, the allegation of logging in at 2:59 PM is false, and the entire narrative advanced by the Appellant stands demolished by documents submitted by him.

11. Further, Learned Counsel submits that the screen shots of auction page placed on Pages 78, 80 and 82 of the Appeal Paper Book reveal the true conduct of the Appellant. At these stages of the auction, the Appellant still had sufficient time to revise his bid, but instead of placing higher bids, he deliberately took screenshots of his own computer screen to fabricate a case. It can be seen from the screen shot of the web page attached as Page 78, that he had several seconds remaining to revise his bid, but he chose not to do so. Similarly, screen shot on Page 80, once again shows that he had available time still he did not increase his bid and only took another screenshot. Lastly, it is seen from the screen shot on Page 82 that even with 10 seconds remaining, the Appellant repeated the same conduct. This pattern shows mala fide conduct on the part of the Appellant, who participated in the process, not with the intention of acquiring the assets of the Corporate Debtor, but to create self-serving records for future litigation.

12. Ld. counsel further points out that the screen shot on Page 96 of the Appeal Paper Book conclusively demonstrates the Appellant's dishonest conduct. At that stage, the Appellant had 27 seconds left to revise his bid, but he intentionally entered an incorrect amount of Rs. 1,56,30,000/-, whereas

the system itself reflected that the next valid bid, could only have been Rs. 1,56,80,000/-. This shows that the Appellant had no intention to maximize the value of the assets of the Corporate Debtor, but instead deliberately placed a wrong bid so as to later claim irregularity in the auction. The mala-fide conduct of the Appellant is thus writ large and stands established from his own documents.

13. Summing up his arguments, Ld. Counsel stated that the only purpose of the present Appeal is to blackmail and malign the Liquidator. The Appellant never intended to participate bona fide in the auction, but entered the process only to obstruct liquidation and drag the Liquidator into vexatious litigation. Such conduct deserves to be deprecated. Ld. Counsel submitted that the Appeal, being frivolous and malicious, be dismissed with exemplary costs in order to curb such mischievous attempts to derail the liquidation process and tarnish the reputation of the Liquidator, who has acted strictly in accordance with law.

Submissions on behalf of Respondent No. 3/ Successful bidder

14. Learned counsel for Novelty Textiles, the Successful Bidder in the auction and Respondent No. 3 submits that the answering respondent duly participated in the e-auction conducted by the Liquidator in respect of Plot No. G-78, G-79 and part of Plot No. G-80, Industrial Area, Beawar, admeasuring in total 2990 sq. meters. In accordance with the prescribed terms and conditions of the auction, the answering respondent deposited 10% of the Earnest Money Deposit (EMD), being an amount of Rs. 15,60,500/-, with the Liquidator on 04.09.2023. This payment was made through RTGS

and duly acknowledged by the Liquidator. It is thus clear that the answering respondent was an eligible participant, who complied with all pre-auction requirements in time and in the manner mandated.

15. Learned counsel further submits that during the course of the e-auction held on 06.09.2023, he placed an initial bid of Rs. 1,56,05,000/-. Thereafter, another bidder placed a bid of Rs. 1,56,30,000/-, to which he responded by placing a higher bid of Rs. 1,56,55,000/-. Beyond this stage, no further bids were placed by the Appellant or any other participant. Consequently, their bid came out as the highest bid. Accordingly, the Liquidator issued a Letter of Intent in his favour directing deposit of the balance amount within the prescribed period of 30 days. It is pertinent to note that the fact of the answering respondent being declared as the highest bidder stands established from the very documents filed along with the appeal itself. The allegation of the Appellant that he was prevented from placing a higher bid is wholly misconceived, for the record clearly shows that the system displayed the next possible bid as Rs. 1,56,80,000/-, yet the Appellant deliberately refrained from entering such a bid. His claim that he was unable to do so is therefore a concocted story, liable to be rejected outright.

16. Learned counsel next submits that pursuant to the Letter of Intent, the answering respondent was directed by the Liquidator to deposit 25% of the bid amount within 24 hours. Complying with the said requirement, the answering respondent deposited a sum of Rs. 23,53,250/- on 06.09.2023. Subsequently, the answering respondent also deposited the balance consideration amount well within the stipulated period prescribed by the

Liquidator. Upon full payment, the answering respondent requested execution of the sale deed in its favour. The entire sequence of payments made by the answering respondent has been tabulated and forms part of the reply, establishing compliance with every demand raised. Thereafter, the Liquidator executed a Sale Deed dated 13.10.2023, which was duly registered on 17.10.2023 in favour of the answering respondent. A copy of the registered Sale Deed has been enclosed as Annexure R/2 of his reply. Thus, the auction process stood lawfully concluded in favour of the answering respondent.

17. Learned counsel further submits that after registration of the sale deed, possession of the property was handed over to the answering respondent, who thereafter established a workshop on the premises for its business activities. The answering respondent commenced manufacturing material relating to tent house products and has made substantial investments on the said property in good faith, with the legitimate expectation of deriving returns. However, due to the interim orders passed by this Appellate Tribunal, the answering respondent has been unable to secure financial facilities from banks or institutions, thereby severely affecting smooth running of its business. This has caused serious financial prejudice to the answering respondent who, despite being a bona fide auction purchaser, is suffering due to frivolous litigation. Photographs evidencing the workshop established on the premises have been placed on record and marked as Annexure R/3 of his reply.

18. Learned counsel finally submits that from the above sequence of events, it is clear beyond doubt that the Appellant never genuinely participated in the auction with the bona fide intention of purchasing the property. His conduct throughout demonstrates an attempt to disrupt the process, rather than to enhance value. The Appeal is nothing but a mala fide attempt to derail the liquidation process after the auction has been successfully completed, full consideration paid, and sale deed registered in favour of the answering respondent. The answering respondent has already invested heavily in reliance upon the concluded sale, and further delay would cause irreparable harm. Ld. Counsel therefore prayed that the present Appeal may be dismissed with exemplary costs in order to prevent abuse of the judicial process and to protect the sanctity of auctions conducted under the Insolvency and Bankruptcy Code.

Analysis and findings

19. We have gone through the documents on record and heard the Ld. Counsels for the parties at great length. Respondent No.2 - Punjab National Bank has not filed its reply and has supported the contentions of Respondent No.1/Liquidator and Respondent No.3/ the Successful Bidder.

20. The core issue which falls for our determination is whether the e-auction conducted on 06.09.2023 by the Liquidator in the liquidation of Atlas Alloy (India) Pvt. Ltd. was vitiated by fraud, collusion, or material irregularity in such a manner, as to render the auction void.

21. The Auctions in liquidation proceedings are not mere private transactions; they are mechanisms designed under the Code to ensure transparency, fairness, and maximisation of value for the creditors and stakeholders of the corporate debtor. If allegations of manipulation are found correct, then the auction itself collapses, defeating the very purpose of liquidation. However, if such allegations are speculative or unsupported, interference with a concluded auction would unsettle the certainty of liquidation, delay distribution to creditors, and encourage frivolous litigation. With this balance in mind, we proceed to analyse the rival contentions and the documents on record.

22. The Appellant's first allegation is that he was the sole bidder on the platform until about 3:00 p.m., when suddenly another participant was introduced by the Liquidator in collusion with external parties. We examine this contention against the documentary record. The Liquidator has produced proof that the other bidder, *viz. Novelty Textiles*, deposited the earnest money deposit (EMD) on 04.09.2023, two days prior to the auction. The bank entry confirming such deposit and the portal's acknowledgment of registration have been filed. The extract from Bank statement of the CD has been extracted below for reference:

		Kotak Mahindra Bank	
ATLAS ALLOY INDIA PRIVATE LIMITED-IN LIQUIDATION		Period : 01-08-2023 To 15-09-2023	Cust.Rein.No : 506223761
402 4TH FLOOR OK PLUS DP		Account No : 0645174159	Currency : INR
METRO NEW SANGANER ROAD		Branch : JAIPUR-NEW SANGANER ROAD	Nominee Registered : N
JAIPUR-302019		Branch Address : 7 - BOHRA ENCLAVE, DP COLONY, NEW SANGANER ROAD, BHAGWAN MARG, JAIPUR JAIPUR-302019 RAJASTHAN, INDIA	
RAJASTHAN, INDIA		Branch Phone No. :	MICR Code : 302485013
		IFSC Code : KKBK0003544	

Date	Narration	Chq/Ref No	Withdrawal (Dr)	Deposit(Cr)	Balance
	B/F				504,663.00(Cr)
09-08-2023	TO CLG MANISH KUMAR SURANA S O S BANK OF B	31	12,960.00		491,703.00(Cr)
09-08-2023	TO CLG E PROWREMENT TECHNOLOGIE ICICI BANK	29	4,130.00		487,573.00(Cr)
10-08-2023	TO CLG LAXMIKANT SHARMA S O DWAR BANK OF B	28	4,895.00		482,678.00(Cr)
10-08-2023	TO CLG SHREE SECURITY SERVICES STATE BANK	32	297,648.00		185,030.00(Cr)
19-08-2023	TO CLG BHOJRAJ SAINI BANK OF BARODA	27	10,000.00		175,030.00(Cr)
25-08-2023	BY CLG INST 799658/24-08-23/KBL/JAIPUR			1,560,500.00	1,735,530.00(Cr)
04-09-2023	RTGS HDFCR52023090484890491 ABDUL KHALID HDFC00	RTGSINW-0064298557		1,560,500.00	3,296,030.00(Cr)
06-09-2023	RTGS HDFCR52023090685665741 NOVELTY TEXTILES HD	RTGSINW-0064410580		2,353,250.00	5,649,280.00(Cr)
13-09-2023	TO CLG C PROCUREMENT TECHNOLOGI ICICI BANK	33	4,130.00		5,645,150.00(Cr)
13-09-2023	RTGS HDFCR52023091387367103 NOVELTY TEXTILES HD	RTGSINW-0064628995		4,000,000.00	9,645,150.00(Cr)
13-09-2023	Sent RTGS KKBKR52023091300785142/JAI AGARWAL	34/000351734631	1,560,500.00		8,084,650.00(Cr)

For Atlas Alloy (India) Private Limited
 In Liquidation
 Liquidator

23. We can see from the entry dated 04.09.2023 that Mr. Abdul Khalid had transferred an amount of Rs. 15,60,500/- in the account of CD. It is the submission of Liquidator and Respondent No.3 that the aforesaid amount was paid on behalf of 2nd bidder Novelty Textiles and is the exact amount of EMD. It is seen from the affidavit filed by the Liquidator that the Successful Bidder viz. Novelty Textiles had submitted its documents to the Liquidator on

29.08.2023 and thereafter they deposited the EMD of Rs.15,60,500/- on 04.09.2023. These details including the bank statement of the CD were submitted to Adjudicating Authority in one of the progress reports of Liquidation of the CD filed by the Liquidator. This clearly demonstrates that the second bidder viz. Novelty Textiles was validly registered for e-auction and was eligible as per the terms and conditions of the e-auction. Thus, the contention of the Appellant that a new bidder was introduced suddenly at the last moment is factually incorrect and unsustainable.

24. The second allegation is that while the Appellant was bidding from his computer, his father was present in the office of the Liquidator and witnessed the Liquidator interfering with or attempting to control his login credentials.

25. In this regard, we have seen the submission of the Appellant before the Adjudicating Authority. In para 6 of the said application filed in I.A. No. 522/JPR/2023 the appellant has stated that he was the sole bidder for the entire bidding period i.e. from 12.00 p.m. to 3.00 p.m. and in support of the same he had relied upon photographs/ screen shots of the e-auction portal. The aforesaid paragraph 6 is extracted below:

“6. That the said auction was being conducted through the portal - ncltauction.auctiontiger.net. That during the E-auction process on 06.09.2023 the applicant was the sole bidder almost entirely until the deadline i.e. 3 P.M. This is evidenced by the photographs/screenshots of the e-auction process, which reflect the fact that the applicant was the sole bidder for almost the entire duration of the e-auction i.e. 12 p.m. to 3 p.m. on 06.09.2023. The applicant's first bid, when the e-auction

commenced was Rs. 1,56,05,000/-. The said bid of the applicant came to be revised, in increments of Rs. 25,000/-, at the insistence of the Respondent Liquidator and his staff”

26. The Adjudicating Authority in para 5 of the impugned order gave the following findings:

“5. The Applicant had used his log-in credentials from his computer on 04.09.2023 and the day of bidding 06.09.2023; firstly, at 12:00 PM; secondly, at 12:19 PM; and lastly, at 02:57 PM. The screenshots relied on by the Applicant have a label of his email box opened and a photo to prove that the Applicant was present in the bidding terminal and during this process, no contact or intervention by Liquidator has been complained by the Applicant.”

27. It is clear from the admission of the appellant and the findings of the AA that appellant has logged in at several times during the auction period. This login was in addition to login from the Liquidators office when the first bid was placed by the appellant father. These logs show that the Appellant logged into the portal at 12:54 p.m. on 06.09.2023 and remained continuously logged in until 3:06 p.m., after the auction had concluded. The same logs have been produced and are extracted below for reference:

Typed copy of page no. 76

AUCTION		Welcome Ganesh Industries Contact US FAQ Logout	
TIGER		06/09/2023 14:57:43 IST Last Login info Settings	
Mail Box	View English auction		
RFX/Tender	Department	: Satyendra Prasad Officer	: Authorised Officer –
	Khorannia- Liquidator		ATLAS ALLOY India
	PRIVATE LIMITED		
Auction	Auction ID	: 277720	Auction no.
Search auction			
Briefcase	Auction brief	: Sale of Property by Liquidator of ATLAS ALLOY (INDIA) PRIVATE LIMITED (In Liquidation)	
Reports	Auction detail	Event Type	
Download		Borrower Name	ATLAS ALLOY (INDIA) PRIVATE LIMITED (In Liquidation)
SSL Patch for Windows XP		Property Type	Land and Building
SSL Patch for Windows			
2003		Property Location (City)	Ajmer
Sale Notice		Property Location (State)	Rajasthan

Typed copy of page no. 78

79

Bidding hall

Key links

view notice & document Bid history

Current date and time :06/09/2023 14:59:09

Remaining time :0 Hr - 0 Minutes - 52 Seconds

Start date and time :06/09/2023 12:00:00

End date and time : 06/09/2023 15:00:00

Current extension (s) in no. :0

Online forward Auction

Start price : 1,56,05,000.00 | Increment: 25,000.00 | Bid date :06/09/2023 12:19:01 | Last accepted bid : 1,56,30,000.00

H1 bid: 1,56,55,000.00 | Your rank: 2 | Next possible bid : 15680000.00 or higher (in multiple)

Sr.

No.	Item Description	Rate (IN Rs. In Fig)	Rate (In Rs. In Words)
1	Sale of Property by Liquidator of ATLAS ALLOY (INDIA) PRIVATE LIMITED (In Liquidation)	15630000	ONE CRORE FIFTY-SIX LAKH THIRTY THOUSAND

Typed copy of page no. 80

81

Bidding hall

Key links

[view notice & document Bid history](#)

Current date and time :06/09/2023 14:59:34

Remaining time :0 Hr - 0 Minutes - 27 Seconds

Start date and time :06/09/2023 12:00:00 End date and time : 06/09/2023 15:00:00
Current extension (s) in no. :0

Online forward Auction

Start price : 1,56,05,000.00 | Increment: 25,000.00 | Bid date :06/09/2023 12:19:01 | Last accepted bid : 1,56,30,000.00
H1 bid: 1,56,55,000.00 | Your rank: 2 | Next possible bid : 15680000.00 or higher (in multiple)

Sr.

No.	Item Description	Rate (IN Rs. In Fig)	Rate (In Rs. In Words)	Bid
1	Sale of Property by Liquidator of ATLAS ALLOY (INDIA) PRIVATE LIMITED (In Liquidation)	15630000	ONE CRORE FIFTY-SIX LAKH THIRTY THOUSAND	

You are advised not to wait till last minute or last few seconds to submit your bid to avoid complication related to internet connectivity, network problems, system crash down, power failure, etc. Neither department nor e-Procurement Technologies Ltd. (Service provider) are responsible for any unforeseen circumstance.

Typed copy of page no. 82

83

Bidding hall

Key links

[view notice & document Bid history](#)

Current date and time :06/09/2023 14:59:34

Remaining time :0 Hr - 0 Minutes - 10 Seconds

Start date and time :06/09/2023 12:00:00 End date and time : 06/09/2023 15:00:00
Current extension (s) in no. :0

Online forward Auction

Start price : 1,56,05,000.00 | Increment: 25,000.00 | Bid date :06/09/2023 12:19:01 | Last accepted bid : 1,56,30,000.00
H1 bid: 1,56,55,000.00 | Your rank: 2 | Next possible bid : 15680000.00 or higher (in multiple)

Sr.

No.	Item Description	Rate (IN Rs. In Fig)	Rate (In Rs. In Words)	Bid
1	Sale of Property by Liquidator of ATLAS ALLOY (INDIA) PRIVATE LIMITED (In Liquidation)	15630000	ONE CRORE FIFTY-SIX LAKH THIRTY THOUSAND	

You are advised not to wait till last minute or last few seconds to submit your bid to avoid complication related to internet connectivity, network problems, system crash down, power failure, etc. Neither department nor e-Procurement Technologies Ltd. (Service provider) are responsible for any unforeseen circumstance.

Auction ID : 277720

Auction no.

Auction brief : Sale of Property by Liquidator of ATLAS ALLOY (INDIA) PRIVATE LIMITED (In Liquidation)

Department : Satyandra Prasad Khorania Officer Authorised Officer ATLAS ALLOY

28. These technical records conclusively establish that the Appellant's login was active from his own computer system and not from any external source.

The mere fact that his father was physically present in the Liquidator's office does not translate into evidence that the Liquidator accessed or interfered with the Appellant's portal credentials. No contemporaneous complaint was made in this regard either. Hence, this allegation is without foundation.

29. The third allegation is that the Liquidator demanded illegal gratification from the Appellant's father to allow the Appellant to succeed in the auction. There is no material on record to sustain this allegation. No complaint been lodged with the Insolvency and Bankruptcy Board of India (IBBI) against the Liquidator, nor any police complaint been filed against the Liquidator. These are mere allegations without an iota of proof. The allegation remains a bare plea unsupported by proof. In law, fraud or corruption must be specifically pleaded and strictly proved. Suspicion or a bald allegation cannot be the basis to set aside an otherwise valid auction. We therefore reject this contention.

30. The fourth allegation is that the Appellant was ready and willing to offer a much higher bid, but was deprived of the opportunity because of the Liquidator's collusion and interference. On this, the Appellant has placed reliance on screenshots he captured during the auction. Ironically, it is these very screenshots which disprove his case. A screenshot taken at 2:59:34 p.m. shows that the highest bid at that point was Rs.1,56,55,000/- that the next valid bid amount displayed by the system was Rs.1,56,80,000/- and that the Appellant was placed at "Rank 2". The same has been extracted below for reference:

Typed copy of page no. 96

97

BIDDING HALL

Key links

View notice & document | Bid history

Current date and time : 06/09/2023 14:59:34

Start date and time : 06/09/2023 12:00:00

End date and time : 06/09/2023

Remaining time : 0 Hr - 0 Minutes - 27 Seconds

15:00:00 Current extension (s) in no. : 0

Online Forward Auction

Start price : 1,56,05,000.00

Increment : 25,000.00

Bid date : 06/09/2023 12:19:01

Last accepted bid : 1,56,30,000.00

H1 bid : 1,56,55,000.00

Your rank: 2 | Next possible bid : 15680000.00 or higher (In multiple)

Sr. No.	Item Description	Rate (In Rs. In Fig)	Rate (In Rs. In Words)	Bid
1.	Sale of property by Liquidator of ATLASALLOY (INDIA) PRIVATE LIMITED (In Liquidation)	15630000	One Crore Fifty-Six Lakh Thirty Thousand	

You are advised not to wait till last minute or last few seconds to submit your bid to avoid complication related to internet connectivity, network problems, system crash down, power failure, etc. Neither department nor e-Procurement Technologies Ltd. (Service provider) are responsible for any unforeseen circumstance.

98

The screenshot displays the 'Bidding Hall' interface for an online forward auction. At the top, it shows the current date and time as 06/09/2023 15:01:12, with a bidding time over. The start date and time are 06/09/2023 12:00:00, and the end date and time are 06/09/2023 15:00:00. The completed extension(s) in no. is 0.

The 'Online Forward Auction' section provides the following details:

- Start price: 1,56,05,000.00
- Increment: 25,000.00
- Bid date: 06/09/2023 12:19:01
- Last accepted bid: 1,56,30,000.00
- H1 bid: 1,56,55,000.00
- Your rank: 2
- Next possible bid: 15680000.00 or higher (in multiple)

The auction item is listed in a table:

Sr. No.	Item Description	Rate (In Rs. In Fig)	Rate (In Rs. In Words)	Bid
1	Sale of Property by Liquidator of ATLAS ALLOY (INDIA) PRIVATE LIMITED (In Liquidation)	15630000	ONE CRORE FIFTY-SIX LAKH THIRTY THOUSAND	

A warning message states: "You are advised not to wait till last minute or last few seconds to submit your bid to avoid complications related to internet connectivity, network problems, system crash down, power failure, etc. Neither department nor e-Procurement Technologies Ltd. (Service provider) are responsible for any unforeseen circumstance."

The 'Auction summary' section includes the following details:

- Auction ID: 277720
- Auction no.: Sale of Property by Liquidator of ATLAS ALLOY (INDIA) PRIVATE LIMITED (In Liquidation)
- Department: Saiyendra Prasad Khorania-Liquidator
- Officer: Authorised Officer- ATLAS ALLOY India PRIVATE LIMITED
- Start date and time: 06/09/2023 12:00:00
- End date and time: 06/09/2023 15:00:00
- Auction Variant: Forward
- Auction type: Standard

On the right side of the screenshot, there is a vertical stamp that reads: "OATH COMMISSIONER RAJ. HIGH COURT JODHPUR".

31. Despite this clear knowledge of the amount required to outbid the rival bidder, the Appellant chose to enter an invalid figure of Rs.1,56,30,000/- The system, programmed to reject invalid bids, did so. Instead of rectifying his error and placing the correct next bid of Rs.1,56,80,000/- the Appellant continued to take screenshots at 14:59:45 hrs and even with 10 seconds remaining. The subsequent screen shot which has been taken at 15:01:12 hrs reflects the situation after the auction has been closed. At this time also the bid of Rs. 1,56,30,000/- entered by the appellant is reflected in the system even after completion of auction. This screen shot also clearly shows that the appellants rank was No. 2 and the next possible bid had to be Rs.1,56,80,000/- or higher. These subsequent screenshots, show that the system continued to display the next valid bid, yet the Appellant did not act and retained his earlier bid of Rs. 1,56,30,000/-. His failure was therefore not due to denial of opportunity, but arose from his own lapse or unwillingness to bid higher.

32. We have also looked at the safeguard features of the auction itself. The auction was conducted on *ncltauction.auctiontiger.net*, an independent e-auction platform. The auction was configured with an automatic extension facility, whereby if a valid bid was placed close to the closing time, the auction would automatically extend by five minutes to ensure that no bidder lost out due to time constraints. This feature existed in the present auction, thereby ensuring fairness. The Appellant having been logged in throughout this period, could have availed of the time extension facility by placing a valid higher bid even at the last second which option he failed to exercise. His

grievance of being deprived of the opportunity is therefore clearly unsustainable.

33. Another argument advanced by the Appellant is that the Liquidator acted in collusion with the rival bidder to depress the bidding and thereby harm the stakeholders. We find no material on record to support this assertion. On the contrary, the rival bidder's participation was based on a valid EMD deposit made two days earlier. The bidding amounts are clearly reflected in the system logs and screenshots. No irregularity has been demonstrated either in the sequence of bids or in the manner of their acceptance by the platform. The process remained transparent throughout, as reflected in the very documents produced by the Appellant.

34. The material on record clearly demonstrates that the auction was conducted fairly and transparently; that the rival bidder was validly registered; that the Appellant was continuously logged in during the entire period and was fully aware of the bidding position; that he failed to place a valid higher bid despite opportunity; and that the allegations of manipulation or bribery are wholly unsupported by material on record. The prejudice claimed by the Appellant is thus self-created and cannot be attributed to any act of the Liquidator or the auction platform.

35. In light of the foregoing discussion, we are satisfied that the e-auction conducted on 06.09.2023 was fair, transparent, and in accordance with law. No fraud, collusion, or material irregularity has been established. The Appellant's allegations not only lack evidentiary support, but are contradicted

by his own documents. His failure to secure the asset is a result of his own inaction and not because of any lapse on the part of the Liquidator.

36. Accordingly, we find no infirmity in the orders of Ld. NCLT, Jaipur Bench dated 06.10.2023, which has been passed considering all relevant facts; and applying the settled principles of law. The impugned order is sound, reasoned, and free from any infirmity.

37. Accordingly, we find no merit in the present appeal. The same is dismissed. There shall be no order as to costs.

[Justice Yogesh Khanna]
Member (Judicial)

[Mr. Indevar Pandey]
Member (Technical)

SA/Pragya (LRA)