

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
AT CHENNAI
(APPELLATE JURISDICTION)

Company Appeal (AT) (CH) (Ins) No. 122/2023
IA No.415/2023 – For stay
IA No.416/2023 – For exemption

(Filed under Section 61 of the Insolvency and Bankruptcy Code, 2016)

Arising out of the Impugned Order dated 07/10/2022 in
IA No. 168/2022 in C.P.(IB) No. 83/BB/2021, passed by the
‘Adjudicating Authority’, (National Company Law Tribunal,
Bengaluru Bench, Bengaluru)

In the matter of:

Mr. Ashok Kriplani

Practicing Advocate &

Erstwhile Resolution Professional

M/s Dreamz Infra India Limited,

17/13, G.F., Old Rajindar Nagar,

New Delhi – 110060

.... Appellant

V

1. Ms.Ramanathan Bhuvaneshwari

Resolution Professional

Regn. No.IBBI/IPA-002/IP-N00306/2017-18/10864

C-006, Pioneer Paradise,

24th Main Road, 7th Phase,

JP Nagar, Bangalore 560 064.

2. M/s Dramz Sneh Project

Allottees Welfare Association

(Financial Creditor)

#302, SR Homes, 1st A Cross,

A Block Vinayaka Nagar,

Near Deepak Clinic via Syndicate Bank,

Old Airport Road, HAL, Bangalore 560017.

... Respondents

Present :

For Appellant : Mr. Ashok Kriplani, (party-in person)

For Respondents : Mr. K.S. Sundar, Advocate, For R1

J U D G M E N T

[Per: Shreesha Merla, Member (Technical)]

I. Aggrieved by the ‘Impugned Order’ dated 07.10.2022 passed in I.A. No.168 of 2022 in C.P. (IB) No.83/BB/2021 Mr. Ashok Kriplani, the Erstwhile RP of ‘Dreamz Infra India Ltd.’ preferred this ‘Appeal’. By the Impugned Order the Adjudicating Authority has dismissed the I.A. No.168 of 2022 preferred by the Appellant seeking to intervene on the ground that the CIRP cost remained unpaid.

2. I.A. No.414 of 2023 has been preferred by the Appellant herein seeking condonation of delay of 145 days in filing this Appeal and further condone 42 days in preferring the present Appeal, in view of the previous Application dated 29.03.2023 [I.A.No.414/2023], pursuant to the order dated 03.05.2023 of this ‘Tribunal’.

3. The 1st Respondent strenuously contended that the Appellant had chosen to file the Application for certified copy only on 19.10.2022 and thereafter sent a reminder on 18.03.2023 annexing a copy of the said order dated 07.10.2022 and that the Appellant had belatedly sent the reminder to issue certified copy.

4. The reasons cited by the Appellant with respect to the delay in sending the reminder for obtaining the certified copy are satisfactory and therefore this Tribunal in the interest of justice condones the delay. For the reasons cited in the Affidavit, I.A.549/2023 is allowed.

5. It is seen from the record that CIRP was initiated against the Corporate Debtor namely Dreamz Infra India Ltd. vide order dated 20.08.2019 and the Appellant herein was appointed as IRP. Subsequently vide order dated 17.12.2019 the Appellant was appointed as RP. It is the case of the Appellant that vide order dated 04.09.2020 the Adjudicating Authority has directed the CIRP to be conducted on a 'Project Wise Basis' and therefore the Appellant was constrained to file I.A. No.168 of 2022 seeking direction from the Adjudicating Authority for deciding first the unpaid CIRP cost to be paid to the Appellant before admitting the case of the second Respondent which is C.P.(IB) No. 83/BB/2021.

6. It is an admitted fact that the Appellant was appointed as an RP in C.P.(IB) No.83/BB/2021 and had already been removed from the capacity of RP on 08.03.2021 and was replaced by Mr. Konduru Prasanth Raju. Hence, as the situation stands today the Appellant is neither the RP in C.P.(IB) No.84/BB/2019 nor is he connected with C.P.(IB) No.83/BB/2021.

7. Having regard to the fact that the Appellant herein was appointed as Interim Resolution Professional/Resolution Professional in C.P.(IB)No.84/BB/2019, in another Project, viewed from any angle, the Appellant cannot seek any unpaid Fees/Costs from the ‘Members of the Committee of Creditors’ of another project of the ‘Corporate Debtor’. This Tribunal, is of the considered view that the ‘Appellant’ has no ‘Locus standi’ to make his claim in C.P.(IB) No.83/BB/2021 and therefore this ‘Tribunal’ does not find any substantial ground(s) to interfere with the well-considered order of the ‘Adjudicating Authority’ in I.A. No.168 of 2022 in C.P. (IB) No.83/BB/2021. Needless to add, the Appellant is at liberty to pursue his remedy, if so advised, in accordance with law. No costs. Pending IAs are closed.

[Justice M. Venugopal]
Member (Judicial)

[Shreesha Merla]
Member (Technical)

SE/NG