

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH
COURT- III**

**IA NO.5137/2021
IN
IB-1411/ND/2018**

IN THE MATTER OF

AS Technosoft Private Limited

...Operational Creditor

Versus

Indianroots Shopping Limited

...Corporate Debtor

IN THE MATTER OF:

**Ashok Kumar
RP of Indianroots Shopping Limited
A-263/1, First Floor, Derawal Nagar
Delhi-110009**

...Applicant

Versus

**Deputy E.T.O Gurugram
O/o D.E.T.C. (GST), Gurugram (South)
Plot No. C-1, Infocity, Sector-34,
Gurugram,
Email: detcgrs@gmail.com**

...Respondent No.1

**Assistant Commissioner of Income Tax, Circle- 12(I),
New Delhi Room No. 405, 4th Floor,
C.R. Building, LP Estate,
New Delhi- 110002.
Email: delhi.dcit12.1@incometax.gov.in**

...Respondent No.2

Coram:

SH. BACHU VENKAT BALARAM DAS SH. NARENDER KUMAR BHOLA
HON'BLE MEMBER (JUDICIAL) HON'BLE MEMBER (TECHNICAL)

Delivered on: 13.05.2022

Appearances:

For RP/Applicant. : Prachi Johri (Advocate)

For Respondent : Hemant Gupta, Mr. Alok Sharma (Advocates for R-1) along with Rakesh Dahiya, ETO, Adv. Zoheb Hosain, Sr. Standing Counsel for Revenue (for Respondent No.2)

ORDER

PER: NARENDER KUMAR BHOLA, MEMBER (T)

1. **IA-5137/2021** is filed by the Applicant/Resolution Professional seeking enforcement of order dated 23.08.2021 passed by this Hon'ble Adjudicating Authority in IA No. 182/2020 against the Respondents
2. The factual position stated in the present application is as follows:
 - a. It is submitted that the present Application is being filed by the Resolution Professional of the Corporate Debtor, appointed vide order dated 13.03.2019 passed by this Hon'ble Adjudicating Authority in the captioned petition. It is stated that the Resolution Professional had filed an application being IA no. 182/2020 under section 60(5) of the Insolvency and Bankruptcy Code 2016 (in short 'Code') for appropriate



directions, contents of which may be read as part and parcel of the present interlocutory application and same are not being repeated for the sake of brevity. The Respondents herein are the Respondents in IA no. 182/2020. The IA no. 182/2020 was filed before the Hon'ble Adjudicating Authority on 03.01.2020 seeking contribution by the members of the Committee of Creditors ("COC") (i.e., respondents herein) towards costs of Corporate Insolvency Resolution Process ("CIRP").

- b. It is submitted that the Hon'ble Adjudicating Authority vide order dated 23.08.2021 has allowed the said IA No. 182/2020 and has directed the Respondents to contribute to the CIRP Costs in the amount in proportion to their respective claims. After order dated 23.08.2021 came to be passed, the Resolution Professional immediately procured a copy of the same from this Hon'ble Adjudicating Authority and sent a copy of the said order to the Respondents vide email dated 03.09.2021. The Resolution Professional was shocked to note non-compliance of binding order by the Respondents. Thereafter vide multiple follow ups, the Resolution Professional had requested the early compliance of the said order by Respondents. The Resolution Professional had also shared a copy of the said order dated 23.08.2021 passed by this Hon'ble Authority with the counsels of the Respondents. However, neither compliance has been made of the order dated 23.08.2021 nor any communication at all

has been received by the Resolution Professional from either of the Respondents.

- c. Therefore, urgent directions are required to be passed in the present matter for enforcement of order dated 23.08.2021 against the Respondents. The Respondents, despite being in full knowledge of the said order have not complied with the said order and have failed and neglected to honour the directions passed by this Hon'ble Authority. It is submitted that the Respondents have, earlier, by non-payment of COC costs and now by non-compliance of orders of this Hon'ble Authority, brought the CIRP to a standstill and have tied the hands of the Resolution Professional completely. It is further submitted that the Respondents have, till date not filed any appeal or approached this Hon'ble Adjudicating Authority or any other forum against the order dated 23.08.2021 passed by this Hon'ble Adjudicating Authority when almost 2 months have passed since the passing of the said order. The Respondents are liable to be punished with contempt of court proceedings for their deliberate non-compliance of the order passed by this Hon'ble Adjudicating Authority.
- d. It is well established that non-compliance of the orders passed by Hon'ble Courts and Tribunals shakes the very foundation of our judicial system and undermines the rule of law, which all parties are bound to honour and protect, irrespective of their status as government



organization. In fact, the government organisations have a larger responsibility to follow the rule of law. The IBC is a complete Code with time bound process prescribed for insolvency resolution and/or liquidation but the Respondents have paid no heed to the same and have stalled and not fulfilled their obligations. Therefore, the present application is necessitated in these circumstances.

3. The counsel on behalf of the respondent no.1 submitted that the department is in the process of filing the appeal against order dated 23.08.2021, therefore, prayed for adjournment. However, this Adjudicating Authority is not convinced with the submission of the counsel and same is rejected.

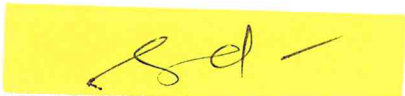
4. The Counsel on behalf of Respondent No. 2 submitted that the Income Tax Department has already filed an appeal against the impugned order and notice was issued by Hon'ble NCLAT vide order dated 12.01.2022 Comp. App. (AT) (Ins.) No. 32 of 2022.

5. The fact that Respondent No. 2 has filed an appeal against the impugned order does not have any bearing on the obligation of the Respondent No. 1 to obey the impugned order and as on date there is also no stay from any superior court against the impugned order. Accordingly, the said order is fully enforceable as against it (Respondent No.1) as on date.



6. In view of the above, IA as filed by the Applicant/Resolution Professional stands allowed with the directions to Respondent No. 1 to make full compliance of this Tribunal order dated 23.8.2021 within two weeks' time, failing which the Applicant shall be at liberty to move appropriate application seeking further orders/directions as per law.

7. The present IA stands disposed of in terms of above orders.



(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)



(NARENDER KUMAR BHOLA)
MEMBER (TECHNICAL)