

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
AT CHENNAI
(APPELLATE JURISDICTION)
Comp App (AT)(CH)(Ins) No.213 of 2022
(Under Section 61 of the Insolvency and Bankruptcy Code, 2016)
(Arising out of the Impugned Order dated 24.05.2022 in
IA/320/CHE/2021, MA/1066/2019, IA/383/CHE/2021, MA/820/2019 in
CP/1156/IB/2018
passed by the ‘Adjudicating Authority’ (National Company Law
Tribunal, Division Bench-1, Chennai)

In the matter of:

Jayashree Mohan	... Appellant
VS	
Pathukasahasram Raghunathan Raman	... Respondent

Present :

For Appellant	: Mr. R. Kannan PCS
For Respondent	: Mr. P.R. Raman, Liquidator

ORDER
(VIRTUAL MODE)

20.06.2022: Heard, Mr. R. Kannan, the Practising Company Secretary appearing for the Appellant and Mr. T.R. Raman, the Learned Liquidator, who appears in person.

After ‘Hearing’ both sides and also on going through the ‘Impugned Order’ in IA/320/CHE/2021 dated 24.05.2022 passed by the ‘Adjudicating Authority’ (National Company Law Tribunal, Division Bench-1, Chennai), this ‘Tribunal’ points out that in the order passed by the ‘Adjudicating Authority’ (National Company Law Tribunal, Division Bench-1, Chennai) in

IA/320/CHE/2021 in MA/1066/2019, IA/383/CHE/2021 and MA/820/2019, it is mentioned that the Respondent was led by the Learned Senior Counsel Mr. E. Om Prakash for the Learned Practising Company Secretary, Mr. Jayanth Viswanathan.

Furthermore, in the ‘Impugned Order’ at Paragraph No.5, it is mentioned that *“in IA/320/CHE/2021, the Petitioner Ms. Jayashree Mohan, wife of the erstwhile suspended Board of Director Mr. Mohan, undertakes to hand over original title documents of the two flats situated at Siruseri and factory land documents to the Liquidator. The Petitioner is directed to hand over the same on or before 10.06.2022 to the Liquidator, failing which coercive actions shall follow”*.

Added further, in the ‘Impugned Order’ it was mentioned that *“in turn, the Learned Liquidator shall give acknowledgment for receipt of all the original documents”* and directed that all the ‘Applications’ were to be ‘Listed’ on 28.06.2022 for further ‘Hearing’.

It is seen from the ‘Impugned Order’ dated 24.05.2022 in IA/320/CHE/2021, this ‘Tribunal’ is of the considered view that instead of mentioning it as IA/383/CHE/2021, it was wrongly mentioned at Paragraph No.5 of the ‘Impugned Order’ as IA/320/CHE/2021.

It is also represented by the Practising Company Secretary Mr. R. Kannan that at the time of passing the order dated 24.05.2022, he was unable to appear before the 'Adjudicating Authority' (National Company Law Tribunal, Division Bench-1, Chennai) and, in fact, the Petitioner Ms. Jayashree Mohan had made her submissions in relation to the handing over of the original 'title documents' of the two flats situated at Siruseri and factory land documents to the 'Liquidator'.

The 'grievance' of the Appellant is that the 'Impugned order' dated 24.05.2022 suffers from serious 'infirmity' in the 'eye of law' because of the fact that the said order is 'bereft and devoid of reasons', for want of material particulars in explaining necessary qualitative and quantitative reasons, for arriving at the 'just conclusion'.

Per contra, the Liquidator / Respondent appearing in person brings it to the 'Notice' of this 'Tribunal' that the Appellant had not raised 'any issue' for 850 days in the 'Instant Case'. The Respondent / Liquidator moved an Interlocutory Application as per Section 19 (2) of the Insolvency & Bankruptcy Code, 2016 and the same is pending before the 'Adjudicating Authority' (National Company Law Tribunal, Division Bench-1, Chennai) and it is true that no 'Reply' was filed in IA/383/CHE/20221 before the

‘Adjudicating Authority’ (National Company Law Tribunal, Division Bench-1, Chennai).

It is relevantly pointed out that a ‘Reasoned Order’ will be a ‘just and fair one’ from the point of view of the ‘Authority’, who passes the same. However, from the perspective of the aggrieved / affected, the same will definitely give room for a ‘cause of concern’ and it will culminate in prejudice and hardship being caused to that person. Therefore, the aspect of ‘principles of Natural Justice’ are to be adhered to by the ‘Adjudicating Authority’ (National Company Law Tribunal, Division Bench-1, Chennai), resorting to Rule 34 of the NCLT Rules, 2016. No wonder, the aspect of providing reasonable opportunity for ‘Hearing’ is one of the ‘tenets’ of the principles of ‘Natural Justice’ and in this aspect no person can be condemned without providing him an adequate opportunity in respect of ‘Hearing’ a matter.

Considering the fact that the ‘Impugned Order’ suffers from ‘infirmity’ in the ‘eye of law’, therefore, it cannot stand a ‘moment scrutiny’ in law, especially, for want of qualitative and quantitative reasons being ascribed thereto in the said ‘Order’ and especially the said order is a ‘cryptic’ and ‘unreasoned’ one, which necessitates an inevitable conclusion to be arrived at, by this ‘Tribunal’, that the same is not ‘valid in law’.

Viewed in that perspective, this ‘Tribunal’ is inclined to interfere to the said ‘Impugned order’ dated 24.05.2022 in IA/320/CHE/2021 in CP/1156/IB/2018 for ‘substantial cause of justice’. The Impugned Order dated 24.05.2022 in IA/320/CHE/2021 in CP/1156/IB/2018 passed by the Adjudicating Authority’ (National Company Law Tribunal, Division Bench-1, Chennai) in CP/1156/IB/2018 is hereby ‘set aside’ for the reasons mentioned in this ‘Appeal’.

The matter is remitted back to the ‘Adjudicating Authority’ (National Company Law Tribunal, Division Bench-1, Chennai) and the ‘Adjudicating Authority’ (National Company Law Tribunal, Division Bench-1, Chennai) is directed to take up IA/320/CHE/2021 in CP/1156/IB/2018 for ‘Hearing’ ‘de novo’ and to dispose of the same, by passing a reasoned ‘Speaking Order’ on merits, of course, after providing adequate opportunities to both the parties, in accordance with law. The fresh orders shall be passed ‘uninfluenced’ and ‘untrammelled’ with any of the observations made by this ‘Appellate Tribunal’, in this ‘Appeal’.

Before parting, it is made quite clear by this ‘Tribunal’ that the ‘Adjudicating Authority’ (National Company Law Tribunal, Division Bench-1, Chennai) has not traversed into the merits of the matter nor expressed any opinion about the same, and further, that the ‘Adjudicating

Authority’ (National Company Law Tribunal, Division Bench-1, Chennai) shall grant an opportunity to both parties to raise all ‘factual’ and ‘legal pleas’, in turn, shall take into account of the same, deal with it and to pass ‘Final Orders’ in a ‘just’ and ‘fair’ manner in IA/320/CHE/2021 in CP/1156/IB/2018, in any event, within ‘four weeks’, from the date of receipt of a copy of this ‘Order’.

It is open to the ‘Adjudicating Authority’ (National Company Law Tribunal, Division Bench-1, Chennai) to ‘List’ the other Applications along with IA/320/CHE/2021 in CP/1156/IB/2018, as it deems fit and proper, and to deal with them on ‘Merits’ and to pass ‘Orders’ in accordance with Law.

With the aforesaid ‘observations’ / ‘directions’, the instant Company Appeal (AT)(CH)(Ins) No.213 of 2022 stands **disposed of**. No costs.

[Justice M. Venugopal]
Member (Judicial)

[Mr. Kanthi Narahari]
Member (Technical)

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