

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 467 of 2018

IN THE MATTER OF:

Joseph Philip

...Appellant

Vs

Ashish Rathi & Anr.

....Respondents

Present:

For Appellant: Mr. Jayesh Dolia, Mr. R. Chandrachud, Mr. Nitin Thukral and Mr. Karan Sharma, Advocates.

For Respondents: Mr. Rajiv S. Roy and Mr. Avro Chaterjee, Advocates for R-2.

ORDER

21.08.2018: Learned counsel appearing on behalf of the Appellant is allowed to correct the typographical error in the page 11 of the paper book.

2. The Appellant who is the Director of the Corporate Debtor has challenged the order dated 17th July, 2018 passed by the Adjudicating Authority (National Company Law Tribunal), Division Bench, Chennai whereby the application preferred by Appellant under Section 60(5) has been rejected.

2. Learned counsel for the Appellant submits that the application under Section 7 filed by the Financial Creditor was heard and on 13th December, 2017 final order was reserved. The Adjudicating Authority subsequently passed order on 29th December, 2017, i.e. during the period of vacation. According to him the order should not have passed on said date and though the order was passed on the said dated it was not communicated to the parties till it was uploaded on 11th January, 2018. The Appellant made prayer to shift the date of admission of application under Section 7 to 16th January, 2018 i.e. the date of communication of the order.

3. Having heard learned counsel for the parties, we are not inclined to accept the submissions as made on behalf of the Appellant. Parties having heard on merit on 13th December, 2017, if the final order was passed on 29th December, 2017, date of admission cannot be shifted to subsequent date of notification of the order by the Registry.
4. We find no merit in this appeal. It is accordingly dismissed. No cost.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice A. I. S. Cheema]
Member (Judicial)

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