

THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Un-numbered Company Appeal (AT) (Insolvency) No. /2018
(F.No.02/06/2018/ NCLAT/UR/556)

In the matter of:

Navneet Kumar Jain Appellant/IRP

And

Power2SME Pvt. Ltd. Appellant/ Operational Creditor

Versus

JV Strips Ltd. Respondent/ Corporate Debtor

Appearance: Shri Vinod Chaurasia, Chartered Accountant for the
Appellant.

10.07.2018

The aforesaid Appeal under Section 61 of the I&B Code, 2016 (hereinafter referred to as the Code) is against the order dated 22.05.2018 and 28.05.2018 in (IB)-452(ND)2017 of the Hon'ble NCLT, New Delhi Bench.

2. The Office after scrutiny of the Memo of Appeal, pointed out the defects under Rule 22 of the National Company Law Appellate Tribunal Rules, 2016 (hereinafter referred to as the Rules) on 04.07.2018 and the Appellant removed all the defects except the defect No.3, which is with regard to the deposit of Court fee. As per Office report, since the Appellant has challenged two orders, therefore, the Appellant is required to deposit additional Court fee of Rs.5,000/-, but the Appellant instead of removing the defect made a request to place the matter before the Registrar. Accordingly, the matter is put up before me.

3. Heard the learned lawyer appearing for the Appellant and perused the report of the Office. As per the Office report, the Appellant has not removed

the defect No.3 as pointed out by the Office, which relates to the payment of Court fee of Rs.5,000/-. Learned lawyer appearing for the Appellant submitted that since the impugned orders, which are under challenge, related to each other, so it may be treated as one order and not two orders. But the Office has treated these two orders separately and on this ground, the Office directed the Appellant to pay additional Court fee of Rs.5,000/- although the Appellant has deposited the fee of Rs.5,000/-. Learned lawyer further submitted that in view of Rule 55 (3) of the NCLAT Rules, 2016 there is a provision to exempt or waive the payment of Court fee and under that rule, the Appellant claims relief.

4. Considering the averments made on behalf of the Appellant and on perusal of the report of Office as well as the Memo of Appeal filed by the Appellant, I find that relief portion of the Memo of Appeal shows that *“Expunge the adverse remarks noted in the impugned orders dt. 22/05/2018 and 28/05/2018 of the Hon’ble NCLT, Delhi against the Appellant”*. Admittedly, the Appellant has challenged two impugned orders and that has not been disputed by the learned lawyer appearing for the Appellant. The only submission is that both the orders are related to each other and so it may be treated as one order and on this ground, he prays for exemption from paying the Court fee of Rs.5,000/- as required under the law.

5. Mere plain reading of the relief portion of Memo of Appeal shows that the Appellant has challenged two impugned orders dated 22.05.2018 and 28.05.2018 and so I am unable to accept the contention of the learned lawyer that both the impugned orders are related to each other and so both may be treated as one order.

6. So far, the prayer of the Appellant that his case may be considered under Rule 55(3) of the NCLAT Rules, 2016 is concerned, I have gone through the relevant portions of the Rules and the same is quoted below: -

55(3) The Appellate Tribunal may, to advance the cause of justice and in suitable cases, waive

payment of such fee or portion thereof, taking into consideration the economic condition or indigent circumstances of the petitioner or appellant or applicant or such other reason, as the case may be.”

7. Mere plain reading of the Rules shows that the case of the Appellant does not come under the category mentioned in Rule 55(3) of the NCLAT Rules. So I am unable to accept the contention of the learned lawyer appearing for the Appellant and on this ground, I am not in a position to waive payment of such Court fee.

8. In view of the aforesaid facts, I am of the considered view that the Appellant is liable to pay the additional Court fee of Rs.5,000/-. On the request, the Appellant is directed to deposit the additional Court fee of Rs.5,000/- within seven days from today and if the Court fee is deposited by 16.07.2018, then put the case before the Hon'ble Appellate Tribunal on 18.07.2018.

(Abni Ranjan Kumar Sinha)
Registrar

Dictated and corrected by me.

(Abni Ranjan Kumar Sinha)
Registrar