

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 540 of 2018

IN THE MATTER OF:

**Ms. Madhu, Proprietor of
M/s. Cargo Container Line**

...Appellant

Versus

**M.M. Cargo Container Line
Pvt. Ltd. & Anr.**

...Respondents

Present:

For Appellant : Mr. Sunil Sharma and Mr. Mayank Goel, Advocates

For Respondents : Mr. Mohtashim Kibriya, Advocate for Liquidator

ORDER

14.09.2018 This application has been preferred by Ms. Madhu, Proprietor of M/s. Cargo Container Line. According to her she has not given any undertaking before the Adjudicating Authority (National Company Law Tribunal), New Delhi Bench on 16th July, 2018 while C.A. No. 159 /2018 filed under Section 66 of the I&B Code and CA 158/2018 has been disposed of by the impugned order dated 21st May, 2018. The Impugned order dated 16th July, 2018 reads as follows:

“The insolvency Liquidator has filed the report.

CA 159/2018 which has been filed under Section 66 of the Code is being pressed for disposal. Previous transactions of the Corporate Debtor in a bid to escape the liability herein is alleged by the RP. Respondent No.

5 & 6 who are related parties of the Corporate Debtor are recipients of large amounts reflected in the Corporate Debtor's financial statements. Notice to both these parties through its Director to be present in Court.

Notice of this application is also accepted on behalf of the Respondent 1 to 4, Let reply be filed.

It is further being pointed out that while disposing of CA 158/2018, this Bench had taken note of the submission made by the Suspended Director of the Corporate Debtor that he would take steps to liquidate the liability outstanding of Rs. 63 lakhs from Respondent No. 2. The said CA was disposed off in terms of the statement made in court. Despite the said statement, the Ex-Director has taken no steps to repay the same and it is therefore submitted by the other counsels that the said amount stands crystallised for recovery of claims.

It is further being pointed out by the liquidator that in order dated 21st May, 2018, there was a typographical error in respect of the name of Respondent no. 2 which has been recorded as M.M. Cargo Container Line Pvt. Limited instead of Cargo Container Line.

The said correction is made in red today.”

From the aforesaid order, it is evident that while CA No. 158 /2018 was taken up by the Adjudicating Authority who has taken note of the submission

made by the suspended Director of the 'Corporate Debtor' that he had agreed to outstanding Rs. 63 lakhs dues of Respondent No. 2. In spite of the same, as the ex-Director had not taken any steps to repay the amount and the liquidator took plea that the amount stands crystallised for recovery of claims. Except the aforesaid observations no other observation has been made nor any specific finding has been given by the Adjudicating Authority. The petition under Section 66 of the I&B Code is still pending for consideration. Further as it is informed by the 'Resolution Professional' / 'Liquidator' that another petition under Section 60(5) of the I&B Code has been filed, we are not inclined to interfere with the impugned order. The Adjudicating Authority may pass appropriate orders in the pending applications keeping in mind the time schedule for liquidation. As no case has been made out, the appeal is dismissed. No cost.

[Justice S.J. Mukhopadhaya]
Chairperson

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

/ns/uk/