

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI
Contempt Case(AT) No. 14 of 2019
In
Company Appeal(AT)(Ins.) No. 170 of 2019

IN THE MATTER OF:

Sojitz India Pvt. Ltd. & Anr. ...Applicants

Vs

Riwan Ahmad & Anr.Respondents

Present:

For Applicants: Mr. Arun Kathpalia, Sr. Advocate along with Mr. Vasnth Rajasekaran, Mr. Akshay Sachtmey, and Ms. Diksha Gupta, Advocates

For Respondents: Mr. A. Muraleedharan, Advocate

With
Company Appeal(AT)(Insolvency) No. 170 of 2019 &
I.A. No. 1854 of 2019

IN THE MATTER OF:

Riwan Ahmad & Anr. ...Appellants

Vs

Sojitz India Pvt. Ltd. & Anr.Respondents

Present:

For Appellant: Mr. A. Muraleedharan, Advocates

For Respondents: Mr. Arun Kathpalia, Sr. Advocate along with Mr. Vasnth Rajasekaran, Mr. Akshay Sachtmey, and Ms. Diksha Gupta, Advocates

ORDER

I.A. No. 1285 & 1854 of 2019

03.02.2020 Heard learned Counsel for the Appellants-Operational Creditor and learned Counsel for the Respondents-Contemnors. Perused

order dated 11.03.2019 which this Tribunal had passed when the parties had entered into terms of settlement so that the Corporate Debtor was to pay Rs. 24,27,64,004/- in four instalments. The last instalment was to be paid by 08.07.2019. It is stated that cheques were given of four instalments and all the four cheques have bounced. Paragraph-10 of the said order reads as under:

...

“10. We make it clear that in case agreement is not complied with in its letter and spirit, it will be open to the Respondents not only to file a petition for contempt for flouting the direction of this Appellate Tribunal, it will also be open to the Respondents to revive the prayer for any proceeding under ‘Corporate Insolvency Resolution Process’ and request this Appellate Tribunal to recall the order and to dismiss the appeal for non-compliance. ”

....

The said Order allowed the Operational Creditor to withdraw the Application which had been admitted by Order impugned in the Appeal. In effect, ‘Corporate Insolvency Resolution Process’ (in short ‘**CIRP**’) was quashed.

2. As the Applicant/Operational Creditor did not get the money as per settlement, this Contempt case has been filed.

3. We have seen the orders dated 16.09.2019, 25.09.2019 and the undertaking given by the Contemnors- Directors vide Diary No. 15008 and 15009 of 2019.

4. Learned Counsel for the Respondent accepts that the amounts according to the Terms and Settlement, have not been paid and till now only Rs. 4 Crores and 4 Lakhs have been paid. Regarding rest of the amount, learned Counsel for Respondents-Contemnors still want to seek time and to further negotiate so as to reduce the amount.

5. We, prima facie, find that there is flouting of directions of this Tribunal and in spite of undertakings given, the same have not been honoured. For such reasons, we post this matter for framing Charge against the Respondents-Contemnors. The Contemnors may also state by next date as to why we should not restore the Application under Section 9 of Insolvency and Bankruptcy Code, 2016 and CIRP and restore the Impugned Order vide which the Section 9 Application was admitted.

List the appeal on **25th February,2020**. Respondents-Contemnors to remain personally present on that date.

Fixed for framing of Charge and to further hear the Respondents-Contemnors.

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

[Justice Anant Bijay Singh]
Member (Judicial)

(Kanthi Narahari)
Member(Technical)

Akc/Md