

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 301 of 2019

IN THE MATTER OF:

Jagay Hembram & Ors.

...Appellants

Vs

Jindal Steel and Power Ltd. & Anr.

...Respondents

Present:

For Appellants: Mr. Joy Saha, Sr. Advocate with Mr. S. K. Tiwari and Ms. Nidhi Mohan Parashar, Advocates.

For Respondents: Mr. Milan Singh Negi and Mr. Karan Batura, Advocates for R-1.

ORDER

27.03.2019: This appeal has been preferred by ‘Jagay Hembram & Ors.’, workmen of ‘Bharat NRE Coke Ltd.’ (Corporate Debtor) against order dated 11th March, 2019 whereby the Adjudicating Authority (National Company Law Appellate Tribunal), Kolkata Bench admitted the application under Section 7 filed by ‘Jindal Steel and Power Ltd.’ (R-1). The grievance of the Appellant – workmen are that in view of the initiation of Section 7 proceeding, the Company is not functioning and workmen are sitting idle. It is submitted that there is only a petty amount available in the account of the Corporate Debtor by which they cannot run the Company but if it would have allowed to function ‘Bharat NRE Coke Ltd.’ (Corporate Debtor), the Promoter could have infused the amount.

2. In the present case, we are not inclined to interfere with the impugned order dated 11th March, 2019 only on ground that the Company has become non-functional after initiation of Corporate Insolvency Resolution Process. Against the same very impugned order dated 11th March, 2019, one ‘Sh. Arun Kumar Jagatramka’ (Promoter and Shareholder of the Company) has preferred Company Appeal (AT) (Insolvency) No. 255 of 2019. In the said case, this Appellate Tribunal by interim order dated 14th March, 2019 directed the Interim Resolution Professional to ensure that the company remains a going concern and

also directed to take assistance of the (suspended) Board of Directors and the employees. This Appellate Tribunal has already directed to release the amount for day to day operations of the company and to pay the current bills of the suppliers, salaries and wages of the employees/workmen, etc.

3. In view of the interim order passed in Company Appeal (AT) (Insolvency) No. 255 of 2019, we are of the view that the interest of the employees has been protected and therefore on the ground that Corporate Insolvency Resolution Process is disadvantageous, no direction is called for against the impugned order dated 11th March, 2019. However, as we are hearing the Company Appeal (AT) (Insolvency) No. 255 of 2019 filed by the Promoter - 'Sh. Arun Kumar Jagatramka' against impugned order dated 11th March, 2019, we are not expressing any opinion about the merit of the decision as made by the Adjudicating Authority vide impugned order dated 11th March, 2019. If the workmen being 'Operational Creditors', if so choose, may assist this Appellate Tribunal in its representative capacity (not all workmen) in the aforesaid Company Appeal (AT) (Insolvency) No. 255 of 2019 to ensure that the 'Bharat NRE Coke Ltd.' (Corporate Debtor) survives and is not liquidated. The appeal stands disposed of with aforesaid liberty. No cost.

[Justice S. J. Mukhopadhaya]
Chairperson

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

am/sk

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