

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Ins) No. 190 of 2020

IN THE MATTER OF:

TUF Metallurgical Pvt. Ltd.

....Appellant

Vs.

Impex Metal & Ferro Alloys Ltd & Ors.

....Respondents

Present:

For Appellant: Mr. Vaibhav Mahajan, Advocate

For Respondents:

O R D E R

31.01.2020: Heard learned counsel for the Appellant.

It appears that in terms of the Impugned order dated. 09.12.2019, the Adjudicating Authority (National Company Law Tribunal), Kolkata Bench, Kolkata has directed the liquidator to consider the claim of appellant as per rules. It is submitted that the liquidator has admitted the claim of the appellant to the extent of Rs. 4,50,54,512/- as reflected in Page 261 of the paper book.

Learned counsel for the Appellant invited our attention to the Reply filed by the liquidator in application preferred by the appellant before the Adjudicating Authority wherein the stand taken is that the non supply of material or no refund of advance taken for supply of material is not Corporate Insolvency Resolution Process cost, even if it is incurred/ taken place during Corporate Insolvency Resolution Process period or thereafter. It is submitted that the Appellant seeking refund of advance money has erroneously been treated as a creditor causing grave prejudice to his legal rights and legitimate interests in the event of water fall mechanism devised under Section 53 of the I&B Code being applied to it.

Let notice be issued on Respondents by Speed Post. Requisites along with process fee, if not filed, be filed by tomorrow. If the Appellant is able to ascertain the email address of Respondents, he may file the same and notice may be issued through email as well.

Meanwhile, the liquidator shall not disburse the sale proceeds of the liquidated assets to the extent of Rs. 4,50,54,512/- till the next date of hearing.

List this appeal on after notice **02nd March, 2020**.

[Justice Bansi Lal Bhat]
Member (Judicial)

[Justice Venugopal M.]
Member (Judicial)

[V. P. Singh]
Member (Technical)

sa/nn