

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI
Company Appeal (AT) (Insolvency) No. 62 & 98 of 2020

In the matter of:

SE Forge Ltd.

....Appellant

Vs.

M/s. Welmech Engineering Company Pvt. Ltd.

....Respondent

Present:

Appellant:

Mr. Abhijeet Sinha, Mr. Mahesh Agarwal, Mr. Nishant Rao, Mr. Divyang Chandiramani, Mr. Kamesh Vedula and Mr. Arnav, Advocates

Respondents:

Mr. Upkar Agarwal and Mr. Ishan Khanna, Advocates

ORDER

13.02.2020: Mr. Ishan Khanna, Advocate appears on behalf of the Respondent and seeks time to file reply.

Learned counsel for the Appellant shall provide complete paper-book to the learned counsel for the Respondent during the course of the day. Learned counsel for the Respondent is allowed two weeks' time to file reply-affidavit. Rejoinder, if any, may be filed by the Appellant within a week thereof.

Learned counsel for the Appellant has brought to our notice the order dated 28th January, 2020 passed by the Adjudicating Authority (National Company Law Tribunal), Ahmedabad by virtue of which it has simply adjourned the matter on the ground that the issue is *sub judice*. This has been done despite showing awareness of the interim order passed by this Appellate Tribunal on 22nd January, 2020 which clearly specified that it will

be open to the Adjudicating Authority to go through the records of the Form-5 and the reply, if any, filed by the 'Corporate Debtor' and on hearing pass appropriate order in accordance with law even during the pendency of the appeal. In the backdrop of this eloquent order, the Adjudicating Authority was not supposed to decline to address the issue merely on the ground that the matter is *sub judice*. The order of this Appellate Tribunal appears to have been misunderstood and misconstrued. We reiterate the order and impress upon the Adjudicating Authority to follow the same in its letter and spirit.

Post the case 'for Admission (After Notice)' on **12th March, 2020**.

[Justice Bansi Lal Bhat]
Member (Judicial)

[V. P. Singh]
Member (Technical)

[ShreeshaMerla]
Member (Technical)

ns/nn

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