

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
Company Appeal (AT) (Insolvency) No. 108 of 2021**

In the matter of:

Narendra Kumar Rathi

....Appellant

Vs.

Union Roadways Ltd. & Anr.

....Respondents

Present:

Appellant: Mr. Shivam Goel, Advocate.

**Respondents: Ms. Nikshubha Sethi, Ms. Aishwarya, Mr. Akash
Srivastava, Advocates for R2.**

ORDER

(Through Virtual Mode)

17.02.2021: I.A. No. 247 of 2021 has been filed by the Appellant for seeking exemption from filing certified copy of the impugned order dated 12.01.2021. I.A. No. 247 of 2021 stands disposed off with direction to the Appellant to file the certified copy of the impugned order within two weeks.

2. Appellant an erstwhile Director and Shareholder of the Corporate Debtor has, through the medium of instant appeal, assailed the order of admission of application of the Respondent No.1 (Operational Creditor) in terms of the impugned order dated 12th January, 2021 passed by the Adjudicating Authority (National Company Law Tribunal), New Delhi (Court No.IV).

3. One of the issues raised in this appeal is that though default is stated to have occurred on 10th December, 2018 as recorded in Form-5, the Demand Notice was issued on 28th November, 2018 which states that the dates on which the default occurred are as mentioned in Annexure A-1. Thus, it is pointed out by Mr. Shivam Goel, Advocate representing the Appellant that the

Contd/-.....

date of default as described in Form-5 i.e. Application to the Adjudicating Authority is fictitious and passing of the impugned order on the basis of same is not warranted.

4. Issue Notice upon Respondents. Notice on behalf of Respondent No.2 is waived and accepted by Ms. Nikshubha Sethi, Advocate. No further notice need be issued to her. She may file reply-affidavit within two weeks. Rejoinder, if any, be filed within two weeks thereof. Short written submissions not exceeding three pages may also be filed by the learned counsel for the parties along with the pleadings.

5. Let notice be issued on Respondent No.1 only. Appellant to provide mobile Nos./ e-mail address of the Respondent No.1. Notice be issued through e-mail or any other available mode. Requisites along with process fee be filed within three days.

List the appeal 'for admission (after notice)' on 5th April, 2021.

Meanwhile, CIRP proceedings may continue. However, it shall be subject to the outcome of this appeal.

**[Justice Bansi Lal Bhat]
Acting Chairperson**

**[Dr. Ashok Kumar Mishra]
Member (Technical)**

AR/g