

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

**I.A. No. 735 of 2018 in
Company Appeal (AT) (Insolvency) No. 209 of 2018**

IN THE MATTER OF:

Somesh Bagchi & Ors.

...Appellants

Vs

Nicco Corporation Ltd., through Liquidator

...Respondent

Present:

**For Appellants: Mr. Swarnendu Chatterjee and Mr. Pinaki Addy,
Advocates.**

**For Respondent: Mr. Vinod Kumar Kothari, Liquidator and Ms. Nitu
Poddar, PCS.**

ORDER

21.06.2018. The Liquidator has filed -Interlocutory Application No.735 of 2018 and is pointing out page no.33 of the appeal in which para 19 reads as under:

“19. Whether the copy of memorandum of appeal with all enclosures has been forwarded to all respondents and all interested parties, if so, enclose postal receipt/ courier receipt in addition to payment of prescribed process fee.

Copy has been supplied through registered post as well as courier to the Respondent. Postal receipt/ courier receipt are enclosed.”

2. The Liquidator is submitting that although such statement has been made in the appeal that copy of the appeal has been supplied through registered post as well as courier to the Respondent, no such service was made on the Respondent, nor was copy filed. Mr. Swarnendu Chatterjee, learned counsel appearing for the Appellant is present and his attention is drawn towards statement made in para 19 at page 33 of the appeal and he was called upon to

show the copy of the postal receipt/ courier receipt from the record as the answer shows that “*Postal receipt/ courier receipt are enclosed*”. Learned counsel for the Appellant is stating that the advocate on record had filed the appeal and he cannot state anything in this regard. He however accepts that with the appeal no copy of postal receipt/ courier receipt had been filed although in the answer in para 19 such statement had been made. The counsel then stated that the Registry also did not objected that the copy of postal receipt/ courier receipt had not been filed.

3. The Liquidator is seeking urgent relief by claiming that the order passed by this Appellate Tribunal on 14th May, 2018 may be immediately set aside as according to him the Appellant made false statement that copy of the appeal had been served, although no copy of the appeal had been served. The Liquidator is further submitting that the banks are after the Liquidator for deposit of the money and banks are pressing hard.

4. I have recorded the statement made by the Liquidator and what has been stated by the learned counsel for the Appellant before me. I am however not expressing any opinion as the matter is listed on 2nd July, 2018 before the Regular Court. As such it would not be fit for me during vacation to interfere with the order passed by the Regular Court.

5. Let the matter come up on **2nd July, 2018** when this I.A. praying vacating etc. of Order dated 14th May, 2018 can be considered by Regular Court.

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

am/nn