

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) No. 1423 of 2019

IN THE MATTER OF:

**Yogendra Vasupal
No.4/420, 6th South Cross Street
Kapaleeshwarar Nagar, Neelangarai
Chennai – 600115
9566147469**

**...Appellant
(Original Respondent No.2)**

Versus

**1. Mr. S. Kannan
27, “Skyline Castle”,
Abdul Razack Street
Saidapet, Chennai – 600015
charitarthkannan@gmail.com**

**(Original Applicant –
Liquidator)**

**2. M/s Amazon Internet Services
Private Ltd.
Ground Floor, Eros Corporate Towers
Nehru Place, New Delhi – 110019
narkriti@amazon.com**

**3. Mr. Karthigeyan Srinivasan
No. 10 B1, Prathosh,
Karthikeyapuram
First Cross Street, Madipakkam
Chennai – 600091
karty.iyer@yahoo.com**

(Erstwhile IRP/RP)

**4. Mr. Sachit Singhi
159/483, Barakka Road
Varadhammal Thottam
Kilpauk, Chennai – 600012
sachititpl@gmail.com**

**(Original Respondent No.3)
...Respondents**

Present:

For Appellant : Mr. Yogendra Vasupal (In person)

**For Respondent : Mr. Rishabh Tripathi and Mr. Arvind, Advocates for
R-3
Mr. Karthigeyan Srinivasan, Advocate for RP & R-3
Mr. Ajay Kohli, Advocate for R-2 (AISPL)
Mr. Vasanth Bharani, Advocate for R-9
Mr. Prawal Chaturvedi, Advocate for R-1**

ORDER

03.02.2020 This Appeal has been filed by the Appellant – Erstwhile Director of the Corporate Debtor – M/s Inasra Technologies Private Limited. It is stated that the Company is in stage of Liquidation. The Liquidator (Respondent No.1) filed M.A. No. 172 of 2019 before the Adjudicating Authority (National Company Law Tribunal), Chennai Bench, Chennai claiming that present Appellant should handover entire documents and other material, which is in the possession of the Corporate Debtor and to direct the Appellant and present Respondent No.4 – Mr. Sachit Singh to provide accounts etc. for year ended 31st March, 2017 and 31st March, 2018. Other information was also sought. The Adjudicating Authority considered the application and after hearing the parties passed following orders:

“13. By taking into consideration all the above, there seems to be dereliction of duty on the part of the Respondent Nos.1 to 4 by not providing the necessary information to the Applicant viz., Liquidator to perform his function effectively and it will be of no avail of them to point an accusing finger at each other all of which seriously undermines the interest of creditors including employees of the Corporate Debtor. Therefore, we hereby direct each of the Respondents either individually or jointly to provide all the data and information to the Liquidator as sought for, particularly, in relation to the financial statements for the year ended 31.03.2017 as well as for the year ended 31.03.2018 within a period of three weeks from today. It is evident from the averments made in the Application and as well as during the course of submissions of the Applicant and R2 and R4 as R1 did not choose to appear at the time of oral submissions, that the IRP/RP has grossly failed in his duty to maintain even the ‘essential services’ of the Corporate

Debtor, which is required to be taken note of by the Insolvency and Bankruptcy Board of India (I.B.B.I), being the Regulator and a suitable action be initiated against the IRP/RP viz., Karthigeyan Srinivasan, after due enquiry, as contemplated under the Scheme of the I&B Code, 2016 and the Regulations framed there under by I.B.B.I in relation to conduct of IRP/RP of Corporate Persons during the CIR Process as the Regulator is the person which can take the action for the omissions and commissions purported to have been committed by the IRP/RP as evident in the present instance for which purpose the copy of this Order be forwarded by the Registry to I.B.B.I.

14. With the above directions, this Application is accordingly, ordered. The Applicant viz., Liquidator is directed to file the report about the compliance on the part of the Respondents, within 4 weeks from today. Ordered accordingly.”

2. The present Appeal has been filed by the Appellant raising grievance against the impugned order and the appellant is having grievance that observations are made against the Appellant in para 13, that the Appellant had committed dereliction of duty in not providing necessary information to the liquidator.

3. Before us, the Appellant is raising various grievances that the information in digital form was in cloud storage with Respondent No.2 – M/s Amazon Internet Services Private Limited. That, it was in cloud format, and Amazon had not informed, the Directors that they would be deleting data. Against this Learned Counsel for Amazon is submitting that the Corporate Debtor was bound to pay necessary charges for retaining the data and same were not paid and inspite of e-mails, there was no response and hence the data was deleted. Learned Counsel for Amazon Internet Services Private Limited is

submitting that they have already restored the services and whatever could be restored in terms of Technology has been already complied. Considering Technology we find it difficult to accept that information cannot be retrieved.

4. The Learned Counsel for IRP/RP is having grievance regarding observations of dereliction of duties against IRP/RP and that I.B.B.I has been directed to take note. There is no appeal by IRP/RP and whatever IRP/RP wants to state he may place it before I.B.B.I for it to consider.

5. As observed by Adjudicating Authority here also parties are pointing fingers at each other Perusing the order, which has been passed by the Adjudicating Authority, which requires parties to give information as well as to co-operate we do not find reason to interfere in this Appeal in the Impugned Order only because Adjudicating Authority observed that the Respondents No.1 to 4 were derelict in the duties.

6. The parties are bound to comply the directions of the Adjudicating Authority as referred above and blame game will not be accepted. In default, Adjudicating Authority may take suitable action as per Law.

7. The Appeal is dismissed. No costs.

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

[Justice Anant Bijay Singh]
Member (Judicial)

[Kanthi Narahari]
Member (Technical)

pks/md