

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 691 of 2019

IN THE MATTER OF:

**CA Kannan Tiruvengadam,
R.P. of BRG Iron & Steel Co. Pvt. Ltd.**

...Appellant

Versus

**Deputy Commissioner,
Special Disposal Cell (Port), Custom**

...Respondent

Present:

For Appellant :

**Mr. Abhijeet Sinha, Mr. Rishav Banerjee, Mr.
Zeeshan Haque, Mr. Shambo Nandy, Mr. Rajarshi
Banerjee and Mr. Arijit Mazumdar, Advocates**

For Respondent :

**Mr. Krishanaraj Thakur, Mr. Arjun Asthana and
Ms. Sreenita Ghosh, Advocates for Intervenor**

O R D E R

08.07.2019 The Appellant - 'Resolution Professional' has filed an appeal against the order dated 2nd July, 2019 whereby notice has been issued by the Adjudicating Authority (National Company Law Tribunal), Kolkata Bench, Kolkata to the Commissioner (Customs) by passing the interim impugned order dated 2nd July, 2019, which reads as :

“Ld. Counsel for the Resolution Professional appears. Ld. Counsel for the Financial Creditor appears. Ld. Counsel for the Customs Authority appears. Ld. Counsel for the MSC Agency (India) Pvt. Ltd. appears.

Ld. Counsel for the applicant has filed affidavit of service proving service of notice to the respondents. Ld. Counsel for the Dy. Commissioner of Customs entered appearance and sought time to file reply affidavit and submit that no copy of the application was served upon the respondent. The applicant is directed to serve a copy and on receipt of the copy directed to file reply within 7 days by giving copy of the reply affidavit to the applicant. Rejoinder, if any, is to be filed within 7 days of receipt of the reply affidavit by giving copy of the rejoinder to the other side.

Ld. Counsel for the applicant submits that the respondent might be restrained from disposing of the goods belonging to the CD, allegedly in its custody. According to him order of status quo as on today, if not passed, the prayer in the application would become infructuous. Upon hearing both side, we are not inclined to pass any status quo order, as requested, because the Customs Authorities have entered appearance and sought time to file reply affidavit and the status quo as on today is uncertain.

Any interim application pending for consideration is to be listed, if it is defect free, along with this CA.”

Taking into consideration that the matter is pending before the Adjudicating Authority, we are not expressing any opinion with regard to the ‘interim relief’ as sought for, which the Adjudicating Authority is required to decide after hearing the parties. However, we expect that, in the meantime, Deputy Commissioner of Customs will not sell or alienate the property, (if not already sold or alienated) to make the interim application infructuous.

The appeal stands disposed of with aforesaid observations.

[Justice S.J. Mukhopadhaya]
Chairperson

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

[Kanthi Narahari]
Member (Technical)

/ns/gc