

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 968 of 2019

IN THE MATTER OF:

Jagtar Singh & Sons Hydraulics Pvt. Ltd. **...Appellant**

Versus

Intec Capital Ltd. **...Respondent**

Present:

For Appellant : **Ms. Amrita Mishra, Ms. Ritu Yadav and Mr. Nirha
Singh, Advocates**

For Respondent : **Mr. Ankit Vijatwargna, Advocate**

ORDER

19.09.2019 As the appeal is not maintainable at the instance of the Corporate Debtor in view of the decision of Hon'ble Supreme Court in "*Innoventive Industries Ltd. v. ICICI Bank (2018) 1 SCC 407*" (Para 11), on the request of the learned counsel for the Appellant, we implead 'Mr. Parvinder Singh', Manager of 'Jagtar Singh and Sons Hydraulics Pvt. Ltd.' as Appellant, who has already filed affidavit.

Let the name of the present appellant be substituted with 'Mr. Parvinder Singh' as 'Appellant'.

'Jagtar Singh and Sons Hydraulics Pvt. Ltd.'. ('Corporate Debtor') be transposed as 2nd Respondent through the Interim Resolution Professional.

Let notice be issued on the Respondents.

Mr. Ankit Vijatwargna, Advocate appears on behalf of 1st Respondent along with Mr. Ajay Bansal, Authorised Representative is also present. Learned counsel for the Appellant will serve a copy of the paper-book on him.

Let notice be issued on the 2nd Respondent. Requisite along with process fee, if not filed, be filed by 23rd September, 2019. If the appellant provides the *e-mail* address of respondents, let notice be also issued through *e-mail*. *Dasti* service is permitted.

Learned counsel for the Appellant submits that they are ready to settle the claim with the 'Financial Creditor'. If necessary, they are ready to go before a 'Mediator' who may be appointed by this Appellate Tribunal.

Taking into consideration the fact that the 'Corporate Debtor' is one 'Micro Small and Medium Enterprises' (**MSME**), we are of the view that the parties should settle the matter instead of proceeding with 'Corporate Insolvency Resolution Process'. In the circumstances, we are of the view that Hon'ble Mr. Justice (Retd.) A.K. Sikri, Former Judge of the Hon'ble Supreme Court be and is appointed as 'Mediator'. The parties will contact the Hon'ble Judge by 24th September, 2019 who will decide the fees as may be charged for each session of mediation. There may be two session on a day, but it should not go beyond 2 (Two) days. If mediation fails, in such case this Appellate Tribunal will consider the appeal on merit.

If Hon'ble Mr. Justice (Retd.) A.K. Sikri, former Judge of the Hon'ble Supreme Court agrees the cost of 'Mediation' will be borne by both the parties equally i.e. 50:50% and will pay the fees preferably by Demand Draft/Cheque/RTGS.

On **26th September, 2019**, the parties will inform as to whether Hon'ble Mr. Justice Sikri, Former Judge of Hon'ble Supreme Court has accepted the offer or not.

Post the appeal 'for orders' on **22nd October, 2019**.

During the pendency of the appeal, the 'Interim Resolution Professional' will not constitute any 'Committee of Creditors', if not yet constituted and it will be open to any other 'Financial Creditors', to act in terms with sanction letter, if they have issued in favour of the 'Corporate Debtor'.

In the meantime, the 'Interim Resolution Professional' will also ensure that the company remains going concern and will take assistance of the (suspended) Board of Directors and the officers/ Directors/employees. The person who is authorised to sign the bank cheques may issue cheques but only after approval of the 'Interim Resolution Professional'. The bank account of the 'Corporate Debtor' be allowed to be operated for day-to-day functioning of the company such as for payment of current bills of the suppliers, salaries and wages of the employees'/workmen electricity bills etc.

[Justice S.J. Mukhopadhaya]
Chairperson

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

[Kanthi Narahari]
Member (Technical)

/ns/sk