

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Review Application No.18 of 2019
in
Company Appeal (AT) (Ins) No.434 of 2019

IN THE MATTER OF:

Arun Enterprises **...Appellant**

Versus

Mansfield Cables Company Ltd. & Anr. **...Respondents**

Present:

For Appellant: **Shri Gautam Singh, Advocate**

For Respondent: **Shri Brijender Chahar, Sr. Advocate with Shri Pulkit Agarwal and Shri Ashutosh Kumar, Advocates**

O R D E R

14.08.2019 Review Application preferred by Appellant for recall and review of Order dated 25th July, 2019, which was passed on the statement made on behalf of the learned Counsel for the Respondent, reads as follows:-

“ORDER

25.07.2019 *Nobody appears on behalf of the Appellant.*

Mr. Brijendra Chahar, learned Senior Advocate appearing on behalf of the Respondent submits that the application u/s 60(5)(c) of the ‘Insolvency and Bankruptcy Code, 2016’ filed by the Appellant before the Adjudicating Authority (National Company Law Tribunal), New Delhi Court(Court No. IV), pursuant to which the impugned order was passed has already been set aside in another case. In such view of the matter, this

appeal has become infructuous. No objection to the same has been raised as nobody appears on behalf of the Appellant.

The appeal is disposed of as infructuous.”

Learned Counsel appearing on behalf of the Petitioner/Appellant submitted that Order dated 22nd February, 2019 which was challenged in the Company Appeal (AT) (Ins) 434 of 2019 passed by the Adjudicating Authority (National Company Law Tribunal, New Delhi, Court No.IV) was affecting the right of the Petitioner/Appellant as the Adjudicating Authority held that the Appellant is not a Financial Creditor. It is true that the initiation of the corporate insolvency resolution process has been set aside by this Appellate Tribunal and therefore, the claim of all the parties has become infructuous but the finding that the Petitioner/Appellant is not a financial creditor as observed by the Adjudicating Authority in the Impugned Order dated 22nd February, 2019, may affect the right of the Petitioner/Appellant for preferring any Application under Section 7 for initiating corporate insolvency resolution process against corporate debtor - Mansfield Cables Company Ltd.

Having heard the learned Counsel for the Appellant and the learned Counsel for the Respondent, we are of the view that no findings have been given by this Appellate Tribunal, and as such, the Impugned Order dated 22nd February, 2019 passed by the Adjudicating Authority will not come in the way of Petitioner/Appellant, if it prefers any Application under Section 7 or claims as

a Financial Creditor of the Corporate Debtor. In such case, the Adjudicating Authority will decide the same uninfluenced by the Order dated 22nd February, 2019, which has not reached finality in absence of any decision of this Appellate Tribunal though challenged by the Petitioner/Appellant.

The Review Application stands disposed of with aforesaid observations/clarifications.

[Justice S.J. Mukhopadhaya]
Chairperson

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

[Kanthi Narahari]
Member (Technical)

/rs/sk