

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) No.263 of 2017

IN THE MATTER OF:

SREI Infrastructure Finance Ltd ...Appellant

Vs

Naveen Bansal & Ors ...Respondent

Present: Mr. Gopal Jain, Senior Advocate with Ms Ishita Chakrabarty, Ms Kriti Awasthi, Advocates for the appellants.
Mr. Pankaj Bhatia, Mr. R.Singh, Mr. Ashish Chaudhury and Mr. Dhruv Surana, Advocates for the Respondent.

ORDER

16.08.2017- The respondent, Naveen Bansal, filed the Company Petition No.99/2014 under Section 397 and 398 of the Companies Act, 1956 alleging 'oppression and mismanagement'. The appellant SREI Infrastructure Finance Limited was impleaded as 5th Respondent to the said petition.

2. According to Learned counsel the appellant is financier of the 1st Respondent company and is a Non-Banking Finance Institution. It has financed around Rs.50 crores to the company on agreed terms entered into between the parties and in the absence of any allegation of 'oppression and mismanagement' against the appellant and the appellant not being a shareholder/member of the company the petition against the appellant is not maintainable.

3. The appellant preferred the Company Application No.191/KB of 2017 with prayer to dismiss the company petition as against the appellant/5th Respondent. The Tribunal vide impugned order dated 17th May, 2017 dismissed the interim application.

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4. From the record we find that the appellant (5th respondent) in para 4 of the interim application pleaded that there is a privy of contract between the respondent/petitioner and the applicant/appellant (5th respondent). In view of such stand taken by the appellant the Tribunal rejected the application.

5. Learned counsel for the appellant submits that para 4 of the interim application is a typographical error and there is no such contract reached between the parties nor any such ground has already been taken, but this Appellate Tribunal can not deliberate on such issue as to whether it is a typographical error or not.

6. At this stage when this Appellate Tribunal was considering the petition for condonation of delay, Learned counsel appearing on behalf of the appellant requested to allow the appellant to withdraw the appeal to enable the appellant (5th respondent) to bring the aforesaid error to the notice of Tribunal.

7. In view of such stand taken by Learned Counsel for the appellant, we allow the appellant to withdraw this appeal. If such issue is raised the Tribunal may consider the application on the basis of record uninfluenced by observation made by Appellate Tribunal.

8. The appeal is disposed of as withdrawn. However, in the facts and circumstances there shall be no order as to cost.

(Justice S.J. Mukhopadhaya)
Chairperson

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