

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 457 of 2019

IN THE MATTER OF:

Varada Drilling One Pte. Ltd. & Anr. Appellants

Vs

Mr. Sundaresh Bhatt, Resolution Professional Respondent

Present:

For Appellant: Mr. Krishnedu Dutta, Mr. Vivek Jain, Mr. Manish Shekhari, Ms. Pallavi Shrivastava, Advocates.

For Respondent: Mr. Siddharth Mehra, Advocate.

ORDER

30.04.2019 Learned Counsel for the Appellant submits that free copy of the impugned order was not provided to the Appellant and certified copy applied was received on 22nd April, 2019. Having heard learned Counsel for the Appellant and being satisfied with the ground, we hold that there is no delay in preferring the Appeal. Interlocutory Application No.1470 of 2019 stands disposed of.

2. The Appellant advanced money for construction of Rigs and entered into agreement with ABG Shipyard Ltd. (Corporate Debtor). During the Resolution Process, it filed an application under Section 60 of the I&B Code, 2016 for direction on Resolution Professional to provide necessary and complete information in writing with respect to the treatment of the Rigs in the Financial and the Heads of Accounts of the 'Corporate Debtor', under

which the Rigs are being shown with their respective values. Further prayer was made to direct the Resolution Professional to demarcate and separately identify the Rigs from the assets of ABG so that the Rigs and materials thereof are distinct from other properties of the Corporate Debtor. Further prayer was made to direct the Resolution Professional to allow the authorized representative to be present while the demarcation is done.

3. The Resolution Professional in view of the orders dated 27th February, 2019 and 1st March, 2019 replied and admitted the title of the Rigs through e-mail dated 28th February, 2019. The Resolution Professional stated that it confirmed that the standing Rigs in the form and stage as they were in the same which have already been identified and confirmed by the representative of the Appellant in view of the site inspection as standing and same is also demarcated.

4. According to the learned Counsel for the Appellant, the aforesaid stand taken by the Resolution Professional was not correct. However, the Adjudicating Authority noticed that the Appellant again agitated the matter being not satisfied with the reply sent by the Resolution Professional on 6th March, 2019 with a copy to the Bench also informing the Adjudicating Authority that in furtherance of his previous email and as previously stated in Resolution Plan of ABG Shipyard Ltd. an affidavit in reply dated 14th November, 2018 has been filed and reiterated that the title of the standing rigs identified by the representative of the Appellant along with their representative, lies with the Appellant. In view of the stand taken by the

Resolution Professional, the interlocutory application preferred by the Appellant was partially allowed and disposed of.

5. Learned Counsel for the Appellant submitted that in view of the advance amount paid to the Corporate Debtor, the rigs belong to the Appellant. However, we are not inclined to express any opinion in respect to such claim as it is informed that the order of liquidation has been passed in the meantime.

6. However, this order will not come in the way of the Appellant to file its claim before the Liquidator, who will consider the same in accordance with the provisions of the I&B Code.

7. The Appeal is disposed of with the aforesaid observation. No cost.

8. We make it clear that we have not decided the claim on merits, which may be made by the Liquidator.

[Justice S. J. Mukhopadhaya]
Chairperson

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

[Kanthi Narahari]
Member (Technical)

Ash/GC