

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 1384-1385 of 2019

IN THE MATTER OF:

Punjab National Bank

...Appellant

Versus

Tathya Engineering & Infraproject Pvt. Ltd.
Through its Resolution Professional

...Respondent

Present:

**For Appellant: Mr. Ankur Mittal and Ms. Meera Mittal,
Advocates.**

**For Respondent: Mr. Rajendra Beniwal, Mr. Kumar Sumit, Chirag
Gupta and Mr. Bano Deshwal, Advocate for
Resolution Professional.**

ORDER

16.12.2019 Mr. Rajendra Beniwal, learned Counsel appears on behalf of Mr. Anuj Bajpai, 'Resolution Professional'. He submits that 'Resolution Professional' has already moved an application for 'Liquidation' as per directions of the 'Committee of Creditors', which is pending before the Adjudicating Authority (National Company Law Tribunal), Mumbai Bench.

From the record, we find that in this matter valuation was to be done by the valuer to ascertain the liquidated value of the assets. However, while certain orders were passed by the Adjudicating Authority (National Company Law Tribunal), Mumbai Bench on 3rd September, 2019, and 11th November, 2019, it has directed the officers of the Punjab National Bank to remain present in the Court. Learned Counsel for the parties state that if any clarification was required from the officers of the Punjab National Bank, which is a 'Financial Creditor' and a Member of the 'Committee of Creditors', they should have been asked to file an affidavit and there was no requirement to call for the personal appearance of any of the Officers of the Bank or other Members.

As there is no justification for such appearance and not permissible under the law for 'Corporate Insolvency Resolution Process', we set aside the impugned order dated 3rd September, 2019 and 11th November, 2019, so far it relates to appearance of any of the Officers of the Punjab National Bank or other Members.

We also hold that the Adjudicating Authority has no jurisdiction to call for explanation as to how the 'Financial Creditor' or 'Financial Institution' grants loan, which is a subject matter of the Reserve Bank of India, the Regulatory Authority. The impugned order dated 3rd September, 2019 calling for such explanation is also set aside. However, this order will not come in the way of the Adjudicating Authority to decide the issues in accordance with law and facts. Both the Appeals are disposed of.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

[Justice Venugopal M.]
Member (Judicial)