

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI**

**Company Appeal (AT) (Insolvency)No. 802 of 2019**

**IN THE MATTER OF:**

**Bharat Heavy Electricals Ltd.**

**.....Appellant**

**Vs.**

**Mr. Anil Goel**

**Liquidator of Visa Power Ltd. & Anr.**

**.....Respondents**

**Present :**

**For Appellant:**

**Mr. Rajiv Ranjan, Sr. Advocate with Mr. Punit Tyagi, Ms. Swastika Chakravarti, Advocates**

**For Respondents:**

**Mr. Kanishk Khetan, Mr. Nipun Gautam, Advocates for Liquidator**

**O R D E R**

**07.08.2019** - The Appellant – ‘Bharat Heavy Electricals Ltd.’ has preferred this appeal against the order dated 4<sup>th</sup> July, 2019 passed by the Adjudicating Authority (‘National Company Law Tribunal’) Kolkata Bench, Kolkata which reads as under: -

**“ORDER**

*Ld. Counsel for the Liquidator appears.*

*Heard the submissions of the Ld. Counsel for the Liquidator in CA(IB) 1168/KB/2018. Heard the*

*....contd.*

*submissions of the Ld. Counsel for respondent no. 13 in part. Submissions of the Ld. Counsel for the respondent nos. 1 to 3 are heard in part. It is to be continued tomorrow, i.e. on 05.07.2019.*

*CA(IB) 684/KB/2019 is called out. Affidavit-in-reply is filed by the Liquidator. Petitioner to file rejoinder within seven days. CA(IB) 792/KB/2019 is also filed by the creditor of the corporate debtor challenging the order of liquidation. Liquidator to file affidavit-in-reply within two weeks by serving copy to the applicant and the applicant to file rejoinder within seven days. It is also to appear tomorrow, i.e. on 05.07.2019.*

*CA(IB) 792/KB/2019 is filed by the respondent no. 2. Affidavit-in-reply is to be filed within two weeks by giving copy to the other side. CA(IB)251/KB/2019, CA(IB)792/KB/2019 and 684/KB/2019 are to appear for further consideration on 30.08.2019 and CA(IB) 1168/KB/2019 to appear tomorrow, i.e. on 05.07.2019 for hearing.”*

*...contd.*

When we pointed out that no specific finality has been given or order has been passed to claim that the Appellant is an aggrieved person and entitled to file appeal u/s 61 of the of the Insolvency & Bankruptcy Code, 2016 ('I&B' Code, for short), learned counsel for the Appellant submits that CA(IB)684/KB/2019 and CA(IB)792/KB/2019 were filed by the Appellant for interim order to direct the liquidator not to sell the assets, on which the Appellant has charge.

Mr. Kanishk Khetan, learned counsel appearing on behalf of the Liquidator submits that the claim of the Appellant of charge had already been rejected by the liquidator. In reply, learned counsel for the Appellant submits that the appeal is u/s 42 of the 'I&B' Code which has not been decided on merit and no Interim Order has been passed.

In the facts and circumstances, while we are not expressing any opinion, we direct the Adjudicating Authority ('National Company Law Tribunal') Kolkata Bench, Kolkata to decide the appeal preferred by the Appellant u/s 42 of the 'I&B' Code on merit after hearing the Appellant and the Liquidator at an early date preferably by 30<sup>th</sup> August, 2019 which is the next date fixed for hearing.

...contd.

In the meantime, the liquidator will not allow any person to remove the assets in question, even if it is sold but if not yet removed.

The appeal is disposed of with the aforesaid observations. No costs.

[Justice S. J. Mukhopadhaya]  
Chairperson

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

[Kanthi Narahari]  
Member (Technical)

ss/gc

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