

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

**Company Appeal (AT) (Insolvency)No. 760 of 2019**

**IN THE MATTER OF:**

**Hindustan Zinc Ltd.**

**.....Appellant**

**Vs.**

**ICOMM Tele Ltd. & Anr.**

**.....Respondents**

**Present :**

**For Appellant:**

**Mr. K.Venugopal, Sr. Advocate with Mr. U.N.  
Tiwary, Advocates**

**O R D E R**

**26.07.2019** - The Appellant has challenged the order dated 16<sup>th</sup> May, 2019 passed by the Adjudicating Authority ('National Company Law Tribunal'), Hyderabad Bench which reads as follows: -

*“Senior counsel for the Petitioner present and expressed urgency for passing orders in this matter. Having satisfied with the submissions made by the counsel for the Appellant/RP, this Adjudicating Authority hereby directs the Appellant to issue notice to the Respondent for appearance and for*

*..contd.*

*making submissions in this regard and this Adjudicating Authority hereby Orders a stay against the invocation of Bank guarantee as annexed in the Application as Annexure-A till next date of hearing. Put the matter on 10.06.2019.”*

2. A petition for condonation of delay has been filed but in fact, there is no delay as according to the Appellant it has been filed within time. However, we are not going to dismiss the appeal on the ground of delay.

3. From the plain reading of the Impugned Order dated 16<sup>th</sup> May, 2019 as quoted above, it will be clear that the Adjudicating Authority has not decided any issue and kept the matter stayed and interim order passed till the next date i.e. upto 10<sup>th</sup> June, 2019.

4. Learned counsel for the Appellant appears on behalf of the Appellant submits that an ad-interim order has been passed without notice to the Appellant. The Appellant is also not a party to the petition pending before the Adjudicating Authority.

5. From the record, we find that an ad-interim order continued till next date i.e. upto 10<sup>th</sup> June, 2019. ...contd.

6. When it was brought to the notice of the learned Sr. Counsel, he submits that by subsequent order stay was extended but in the absence of the challenge, we are not inclined to make any observation as the Impugned Order has come to an end on 10<sup>th</sup> June, 2019 and appeal was preferred on 12<sup>th</sup> July, 2019.

7. We are not going into the issue for the present, however, we give liberty to the Appellant to move before the Adjudicating Authority ('National Company Law Tribunal'), Hyderabad Bench to intervene and file an application for vacating the interim order, if continued and may also make appropriate prayer, if because of non- invocation of Bank guarantee it has expired. In such case, the Adjudicating Authority will consider the application and decide the matter both on the question of vacation of stay order and revival of the Bank Guarantee.

The appeal stands disposed of with the aforesaid observations expeditiously.

[Justice S. J. Mukhopadhaya]  
Chairperson

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

[Kanthi Narahari]  
Member (Technical)

ss/sk