

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI
Company Appeal(AT)(Insolvency) No.656 of 2019

IN THE MATTER OF:

State Trading Corporation of India Ltd. ...Appellant

Vs

Concast Steel & Power Ltd.(In liquidation)Respondent

Present:

For Appellant: Dr. Maurya Vijay Chandra, Advocate

For Respondent: Mr. R. Sudhinder, Advocate

ORDER

30.08.2019 The Appellant – State Trading Corporation of India Limited ('Financial Creditor') has preferred this appeal against portion of the order dated 16.05.2019 passed by the Adjudicating Authority (National Company Law Tribunal), Kolkata Bench in CA(IB) No. 70/KB/2019, relevant portion of which reads as follows:

“ORDER

Ld. Liquidator appears. CA(IB) 70/KB/2019 is filed by the Liquidator directing two secured creditors to relinquish their security interest in the asset of the corporate debtor. He submits that they have negligible interest in the assets. Notice has also been served to them but none appears. It appears that those secured creditors do not have any say in the matter. Hence this application is allowed. Liquidator is allowed to sell the assets on their behalf.

CA(IB) 70/KB/2019 stands disposed off. “

2. Learned Counsel for the Appellant submits that 498 MTs of coal lies in the premises of the 'Corporate Debtor' which was verified on 11.04.2018 and valued not less than USD 164,340 as on 23.4.2018. The original quantity of the coal was much more and about 13,000 MT of the coal secured with the Appellant were unauthorisedly lifted by the 'Corporate Debtor' on 15th-16th January, 2015.

3. According to Appellant with regard to the said unauthorized sale of coal, the Appellant initiated the proceeding against the Corporate Debtor to recover the outstanding due in a petition under Section 9 of Arbitration and Conciliation Act, 1996 before the Court of Principal District Judge, Srikakulam which culminated into final order of the Hon'ble High Court of Judicature at Hyderabad on 06.07.2017 in favour of the Appellant. Therefore, according to the Appellant apart from the amount of payable towards supply of 498 MT of coal which belonged to the Appellant, it is also entitled for supply of price of 13,000 MT of coal which was unauthorisedly lifted by the Corporate Debtor between 15th-16th January, 2019.

4. Learned Counsel appearing on behalf of the Liquidator submits that the claim of the Appellant will be considered, the 'Corporate Debtor' having been ordered to be liquidated. It is accepted that the decision passed by the Court of Principal District Judge, Srikakulam is to be complied with.

5. As we find that the amount claimed by the Appellant – State Trading Corporation of India Limited relates to supply of 498 MT of coal, in addition to claim for supply of 13,000 MT of coal which were unauthorisedly lifted by the 'Corporate Debtor' and which has already been accepted by the Liquidator, the

Liquidator is directed to notice the aforesaid facts, while deciding the claim as also for finalization of Scheme, if any, reached under Section 230 of the Companies Act, 2013. On failure, if assets of 'Corporate Debtor' is put on sale, the Appellant may exercise its right, if any, under Section 52 of the IBC.

The appeal stands disposed of with the aforesaid liberty and observations.

[Justice S.J. Mukhopadhaya]
Chairperson

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

(Kanthi Narahari)
Member(Technical)

Akc/Gc