

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT)(Insolvency) No.426 of 2019

IN THE MATTER OF:

M/s. GET & D India Ltd.

.....Appellant

Vs.

Mr. Srikanth Dwarakanath & Ors.

.....Respondents

Present :

For Appellant: Mr. Arun Srikumar with Mr. Vinayak Mehrotra and Ms. Mansi Binjrajka, Advocates

For Respondents: Mr. Puneet Singh Bindra with Ms. Simran Jeet, Advocates for RP (Now Liquidator)

O R D E R

22.04.2019 - This appeal has been preferred by M/s. GET & D India Ltd. who filed an application before the Adjudicating Authority (National Company Law Tribunal), Division Bench, Chennai against the 'Resolution Professional', as the Contractor -BLS Power Solution Limited with whom the Appellant had entered into a sub-contract to execute the work of 'Corporate Debtor' and against the 'Corporate Debtor' seeking directions to the Respondent for return of all the assets of the Appellant lying with the 'Corporate Debtor's Project Site at Raichur (Karnataka) and other consequent reliefs.

The Adjudicating Authority having rejected the claim, the Appellant has challenged the impugned order dated 11.03.2019.

Learned counsel appearing on behalf of the Appellant submits that an agreement was reached between the Respondent No. 3 - 'Corporate Debtor' and the Respondent No. 2 BLS Power Solution Limited for supply of electrical equipment for installation at the power plant of the 'Corporate Debtor'. Having received such contract, the second Respondent BLS Power Solution Limited reached agreement with Appellant on 24.11.2011. Pursuant to the said agreement, the equipment in question were supplied by the Appellant to Respondent No. 2 - BLS Power Solution Limited, for its installation in terms of the agreement and the Appellant delivered the same in terms of the agreement with Second Respondent to the 'Corporate Debtor'. Therefore, according to the Appellant it is a third party material which does not belong to the 'Corporate Debtor' and the 'Resolution Professional' was bound to return the same to the Appellant.

Mr. P.S. Bindra, Learned counsel appearing on behalf of 'Resolution Professional' (now liquidator) supports the impugned order.

From the submission made on behalf of the Appellant and the evidence on records, we find there was no direct contract between the Appellant and the 'Corporate Debtor'. The materials were supplied to the 'Corporate Debtor' by 2nd Respondent BLS Power Solution Limited. The Respondent BLS Power Solution

Limited has not filed any claim that the material belongs to BLS Power Solution Limited or to the Appellant. In the absence of any agreement reached between the Appellant and the 'Corporate Debtor' to suggest that in terms of such agreement that materials were supplied, we cannot direct the 'Resolution Professional' to return the material to the Appellant. Further, a lot of supplies being made it is not possible to identify any material that it belongs to the Appellant or whom which can be decided by a court of competent jurisdiction / before the competent authority of law. In the absence of any merit, the appeal is dismissed. No costs.

[Justice S. J. Mukhopadhaya]
Chairperson

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

[Kanthi Narahari]
Member (Technical)

ss/gc

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