

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

**Company Appeal (AT) No. 24 of 2016**

**16.11.2016**

**IN THE MATTER OF:**

**Pratosh Kumar Sharma**

**.....Appellant**

**Vs.**

**Bhanvi Buildtech Pvt. Ltd. & Ors.**

**....Respondents**

Present: Mr. Krishnendu Datta, Advocate with Mr. Rishi Kapoor and Mr. Sourabh Gupta, Advocates for the Appellant

Mr. Arun Vohra with Mr. Pawan Sharma and Ms Arpita Yadav, Advocates for Respondent Nos. 1 and 2

**ORDER**

Issue Notice. Contesting respondents 1 and 2 have appeared and accepted notice. Rest being the formal respondents, no notice need be issued to them.

2. Heard the parties. Taking into consideration the prima facie view expressed by National Company Law Tribunal, New Delhi at paragraph 9 and 10 of the Order dated 21<sup>st</sup> October 2016 passed in Company Application No.15-CL-II/2016 in Company Petition No. 30(ND) of 2016, while we are not inclined to interfere with the order of appointment of Interim Administrator, we are of the view that for submitting the report it was not necessary for the Tribunal to direct the Interim Administrator to take interim custody of the assets and properties of the company. The

direction to take interim custody of the books of accounts, vouchers and paper is justified for the purpose of submitting a proper report before the Tribunal. For the reason aforesaid while we set aside the part of the order by which Tribunal directed the appellant/company to give interim custody of the assets and properties of the company, uphold the rest part of the interim order dated 21<sup>st</sup> October 2016 passed by the Tribunal. However, it is made clear that if the appellant or the management of the company intend to sell or mortgage or alienate or encumber any of the asset(s) or properties of the company, they will intimate the details of the same to the Interim Administrator as also to the Respondent Nos. 1 and 2 of this Company Appeal. In such case the payment, if any, received should be duly recorded in the current books of accounts and amount should be deposited in the bank account of the company with details to be furnished to the Administrator.

3. Further, it is made clear that the observations made by the Tribunal at paragraphs 8, 9 and 10 or other paragraphs of the impugned order dated 21<sup>st</sup> October 2016 are only prima facie opinion framed by the Tribunal and cannot be relied by any of the party or the Tribunal during final hearing or judgement as may be passed in the Company Petition. The Company petition should be decided on merit on the basis of the evidence on record and the report as may be submitted by the Interim Administrator uninfluenced by the impugned order dated 21<sup>st</sup> October 2016 and earlier Interim Order dated 4<sup>th</sup> March 2016.

4. It is expected that the Tribunal will decide the case expeditiously in view of time frame prescribed under Section 422 of the Companies Act 2013.

5. The appellants will cooperate with the Interim Administrator and hand over books of accounts, vouchers and papers to the Interim Administrator as directed by the Tribunal immediately.

6. The Appellant/company is allowed access to the books of account for the purpose of maintaining the current entries.

7. The impugned Order dated 21<sup>st</sup> October 2016 passed by the Tribunal in Company Petition No. 30(ND) of 2016 stands modified to the extent of the above. The Company Appeal stands disposed of with aforesaid observation and direction.

(Justice S.J.Mukhopadhaya)  
Chairperson

(Mr. Balvinder Singh)  
Member (Technical)

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