

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 298 of 2018

IN THE MATTER OF:

Juggilal Kamlapath Jute Mills Co. Ltd. ...Appellant

Vs

Shiv KantRespondent

With

Company Appeal (AT) (Insolvency) No. 299 of 2018

IN THE MATTER OF:

Juggilal Kamlapath Jute Mills Co. Ltd. ...Appellant

Vs

Shiv KantRespondent

With

Company Appeal (AT) (Insolvency) No. 300 of 2018

IN THE MATTER OF:

Juggilal Kamlapath Jute Mills Co. Ltd. ...Appellant

Vs

Shiv KantRespondent

Present:

**For Appellant: Mr. Arvind Kr. Gupta and Ms. Henna George,
Advocates.**

**For Respondent: Mr. Avneesh Garg and Mr. Amit Kasera,
Advocates.**

ORDER

03.08.2018: Learned counsel appearing on behalf of the Appellant submits that as the main matter has been dismissed and no direction have been given in the interim order dated 9th April, 2018 by the Adjudicating Authority (National Company Law Tribunal), Allahabad Bench in CP No. (IB)41/ALD/2018, he may be permitted to withdraw the appeal.

2. In so far as order dated 9th April, 2018 passed in CP No. (IB)40/ALD/2018 and order dated 9th April, 2018 passed in CP No. (IB)42/ALD/2018 are concerned, learned counsel for the Appellant submits that the Adjudicating Authority while dismissing the applications under Section 47 & 49 of the Insolvency and Bankruptcy Code, 2016 (for short 'I&B Code') preferred by the Respondent as not maintainable and given direction that the order passed by the Hon'ble Delhi High Court on 06.12.2017 will remain intact, and as per the directions of Hon'ble Delhi High Court company would have to keep Rs.2.5 crores in reserve. It is submitted that the Adjudicating Authority has no jurisdiction to pass any such interim order.

3. Having heard learned counsel for the parties and on perusal of two orders both dated 9th April, 2018, we agree that the Adjudicating Authority while rejecting the application has no jurisdiction to pass any interim order, but in the resent case we find that, while dismissing the application the Adjudicating Authority only reminded that there is an order passed by the Hon'ble Delhi High Court on 06.12.2017, which will remain intact, as per which the company if to keep Rs.2.5 crores in reserve. If the Appellant has any grievance in respect to the direction given by Hon'ble Delhi High Court it is open to it to move before Hon'ble High Court for appropriate order but not before this Appellate Tribunal.

4. In view of prayer made by the Appellant, we allow the Appellant(s) to withdraw Company Appeal (AT) (Insolvency) No. 298 of 2018. It is accordingly disposed of as withdrawn. Company Appeal (AT) (Insolvency) No. 299 of 2018 and Company Appeal (AT) (Insolvency) No. 300 of 2018 stands disposed of with the observations as made above and if the interim order passed by Hon'ble Delhi High Court has merged with the order passed by the Adjudicating Authority, the parties may obtain declaration in this regard from the Hon'ble Delhi High Court.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

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