

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Ins) No.1149 of 2019

IN THE MATTER OF:

Tata Motors Finance Ltd.

...Appellant

Versus

Jadoun International Pvt. Ltd. & Anr.

...Respondents

For Appellant:

**Shri Vardhman Kaushik, Shri Nishant Gautam
and Shri Sangkrito Ray Chaudhuri, Advocates**

For Respondents:

None

ORDER

06.11.2019 Heard Counsel for the Appellant. This Appeal is arising from Impugned Order dated 19.09.2019 passed by Adjudicating Authority (National Company Law Tribunal, Jaipur) in IA 238/JPR/2019 and IA 258/JPR/2019 in TA 78/2018.

In this matter, Corporate Insolvency Resolution Process (CIRP) had started on 25th January, 2019. It appears that there was Hypothecation Agreement between the Corporate Debtor and the Appellant and the Appellant in pursuance to the Arbitral Award, proceeded to repossess two trucks belonging to the Corporate Debtor and sold one on 15th March, 2019 and another on 8th April, 2019. The Appellant claims that the Appellant did not have knowledge of the moratorium.

It appears, before the Adjudicating Authority (National Company Law Tribunal, Jaipur Bench), the Resolution Professional (RP) filed IA 238 of 2019 calling upon the Appellant to deposit the money and the Appellant filed IA 258 of 2019 that the Appellant was being restrained from filing claim with the RP who is insisting for first deposit of the value of the trucks already sold.

By the Impugned Order, the Adjudicating Authority has directed the Appellant to deposit Rs.25,10,000/- and then participate. The learned

Counsel for the Appellant is submitting that the Appellant did not have knowledge of the initiation of CIRP process and so the fault cannot be found with the Appellant. The Counsel submits that if the Appellant had the trucks, the Appellant would have given possession of the same but the same have already been sold and if the Appellant is required to deposit the value of the trucks sold, the Appellant would have no assurance of getting back its money.

We do not find any substance in the arguments of the learned Counsel for the Appellant. Once Section 7 Application was admitted, from commencement date, moratorium got activated and any action of the present nature violating moratorium could not be upheld. In the circumstances, we do not find any substance in the Appeal.

Now, the Counsel for the Appellant states that the Appellant may be given time to deposit the money.

We decline to admit this Appeal. The Appeal is rejected. However, if the Appellant deposits money with the RP within 15 days from today, the Appellant may be allowed by the RP to lodge its claim, against Corporate Debtor.

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

[Kanthi Narahari]
Member (Technical)

[V.P. Singh]
Member (Technical)

/rs/gc