

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 658 of 2018

IN THE MATTER OF:

Manish Agarwal

...Appellant

Versus

G.S. Express Pvt. Ltd.

...Respondent

Present:

For Appellant : Mr. Sachit Garga, Advocate

For Respondent : Mr. Ankur Khandelwal, Advocate

O R D E R

06.12.2018 This appeal has been preferred by the appellant against the order dated 5th September 2018 passed by the Adjudicating Authority (National Company Law Appellant Tribunal), Allahabad Bench, which reads as follows:

“Sh. Manish Agarwal (IRP) and Ms. Babita Jain (PCS) along with Anuj Kumar, Advocate for the IRP, is present in the Court.

Learned counsel for the IRP has filed detail of expenses and fee in compliance of our direction dated 20th August, 2018. It appears from the record that total expenses are Rs. 2,24,112/- whereas, he has received Rs. 3,80,000/- from the Corporate Debtor company. The details of expenses have been given by the IRP, but no receipts of amount are furnished. During the visit at Lucknow, a

company secretary Lekhraj Bajaj, who stayed for 4 days in Lucknow, has charged Rs. 30,000+6300 GST as fees of Company Secretary.

It is further stated in the application that Chartered Accountant Mr. Sanjeev Kumar also came and stayed four days in Lucknow and he charged Rs. 40,000/- including GST Charges, but receipt has not been filed relating to this. After the detailed scrutiny of expenses & work done by the IRP, we allow the total payment of only Rs.2,00,000/- against the total expenses and fees incurred in the CIRP and further order to refund the balance amount of 1,80,000/- to corporate debtor Company out of the total amount of Rs. 3,80,000/- received by him”

The brief facts of the case is that pursuant to ‘corporate insolvency resolution process’ against G.S. Express Private Ltd., the appeal was preferred by the Director before this Appellate Tribunal in ‘*Company Appeal (AT) (Insolvency) No. 342 of 2018*’. On 10th July 2018, this Appellate Tribunal taking into consideration the facts that there was a settlement reached between the parties and there was no default on the part of the ‘corporate debtor’, set aside the order of admission and remitted the matter to the Adjudicating Authority to fix the fee of ‘Interim Resolution Professional’. Pursuant to such remand, the impugned order has been passed by the Adjudicating Authority directing the ‘Resolution Professional’ to refund of Rs.1,80,000/-, though the Adjudicating Authority has noticed that the Interim Resolution Professional has incurred expenses of Rs.2,24,112/- and added the fees including G.S.T amount,

It is submitted that the bill of Rs.3,80,000/- was cleared and paid by the 'corporate debtor'. However, after remand of the matter, even the amount which has been paid by the 'corporate debtor' which they have accepted as payable to the 'Resolution Professional', is now being directed to be refunded to the tune of Rs. 1,80,000/-.

The Learned Counsel for the appellant has brought to our notice the different bills to show that he has incurred expenses, we also find that the Adjudicating Authority has failed to notice the aforesaid fact. This apart, once it was agreed by the 'corporate debtor' to pay the amount of Rs. 3,80,000/- being satisfied and having paid the amount, the Adjudicating Authority was wrong in passing order to refund the amount of Rs.1,80,000 to 'corporate debtor'.

Learned counsel appearing on behalf of the respondent submitted that composite invoice of Rs. 6,80,000/- was submitted by the 'Resolution Professional'. Learned counsel for the 'Resolution Professional' submitted that the 'Resolution Professional' will not make any further claim beyond Rs.3,80,000/- already received towards expenses incurred by him and the fees.

In view of the stand taken by the parties and reasons as recorded above, we set aside the impugned order dated 5th September, 2018 and allow the appeal. No cost.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

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