

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 795 of 2018

IN THE MATTER OF:

Ingen Capital Group LLC.

...Appellant

Vs.

Mr. Ramkumar S.V. & Anr.

...Respondents

Present: For Appellant: - Ms. Nishtha Chaturvedi, Advocate.

**For Respondents: - Mr. P.V. Dinesh, Mrs. Sindhu T.P and
Mr. Sayed Mustafa Mumtaz, Advocates for R2 (SBI).**

**Mr. Bishwajit Dubey and Ms. Srideepa Bhattacharya,
Advocates for R.P.**

Mr. K.C. Meena (JP) and Mr. Manish Raj, MCA.

O R D E R

01.03.2019— The Appellant, a ‘Successful Resolution Applicant’, refused to pay the upfront amount pursuant to the impugned order dated 2nd November, 2018 and challenged the said order.

2. On 24th January, 2019, by way of last chance, we allowed the Appellant to state whether they unconditionally agree to deposit at least Rs.1,000 Crores with the Registrar, National Company Law Tribunal, Chennai, without prejudice to the rights and contentions of the Appellant and without compromising with the ‘Resolution Plan’.

3. On 1st February, 2019, learned counsel for the Appellant submitted that without receiving certain information and document, as called for by the Appellant, it will not possible to deposit upfront amount pursuant to 'approved resolution plan'. In this circumstance, the following order was passed on 1st February, 2019: -

~~"01.02.2019—~~ *Learned Senior Counsel for the Appellant submits that without any information it will not possible to deposit upfront amount pursuant to 'approved resolution plan'. In this circumstance, it is to be considered as to what action required be taken for resolution process as also against the 'Resolution Applicant' whose 'Resolution Plan' after approval do not want to give effect to it and put pre condition when no such pre-condition was made in the 'Resolution Plan'.*

Let show cause notice be issued on the Directors of 'Ingen Capital Group LLC.' namely— Mr. Umesh Bhatia and the authorised representative Mr. Harish Bhatia, as to why appropriate action be not taken against them and the National Company Law Tribunal, the Central Government and its agencies be not asked to take appropriate steps against the

Company and its Directors and why cost not be imposed on them.

Ms. Nishtha Chaturvedi, Advocate accepts notice on behalf of the Mr. Umesh Bhatia and Mr. Harish Bhatia. She is allowed to file reply affidavit within 15 days.

Let the Secretary, Ministry of Corporate Affairs, Union of India, New Delhi be also impleaded as party Respondent No. 3 and notice be issued to the Secretary, Ministry of Corporate Affairs, 5th Floor, A-Wing, Shastri Bhawan, New Delhi-110001 along with a copy of this order.

Post the case 'for orders' on 1st March, 2019.

In the meantime, it is open to the Adjudicating Authority to pass appropriate order after hearing the 'Resolution Professional', the 'Managing Committee' and the 'Committee of Creditors'. If there is a second plan complied with Section 30 (2) and is available, it will be open to the 'Resolution Professional' to place it before the 'Committee of Creditors' and thereafter before the Adjudicating Authority for necessary orders."

4. Today, when the matter was taken up, we find that no show cause reply has been filed by the Director of 'Ingen Capital Group LLC.' namely— Mr. Umesh Bhatia and the authorised representative Mr. Harish Bhatia.

5. Ms. Nishtha Chaturvedi, learned counsel appearing on behalf of the Appellant submits that she wants to withdraw the Vakalatnama. Thereby, we find that the Appellant wants to get the case dismissed for non-prosecution, in absence of any counsel or representative.

6. However, as we have already issued show cause notices on the Director- Mr. Umesh Bhatia and the authorised representative Mr. Harish Bhatia asking them as to why appropriate action be not taken against them and the National Company Law Tribunal, the Central Government and its agencies be not asked to take appropriate steps against the Company and its Directors and why cost be not imposed on them, we are not going to dismiss the appeal on the ground of non-prosecution.

7. We allow Ms. Nishtha Chaturvedi to withdraw the Vakalatnama and direct Mr. Umesh Bhatia and Mr. Harish Bhatia to file show cause reply within three weeks, failing which this Appellate Tribunal may initiate a contempt proceeding against them and may issue bailable warrant of arrest.

8. It is stated that pursuant to the earlier interim order, the Adjudicating Authority has passed appropriate order in the meantime.

9. Learned counsel for the Central Government is directed to get the present address of Mr. Umesh Bhatia and Mr. Harish Bhatia of 'Ingen Capital Group LLC.' and file an affidavit by 7th March, 2019.

Place the case 'for orders' on 2nd April, 2019.

Let a copy of this order be communicated to Mr. Umesh Bhatia and Mr. Harish Bhatia.

(Justice S.J. Mukhopadhaya)
Chairperson

(Justice Bansi Lal Bhat)
Member(Judicial)

Ar/g