

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
Company Appeal (AT) (Insolvency) No. 1250 of 2023**

In the matter of:

Ajay Kumar Agarwal

....Appellant

Vs.

Mr. Krishna Kumar Chhaparia,

...Respondents

Liquidator of Aditi Health Oils Pvt. Ltd. & Ors

For Appellant

**Mr. Gaurav Mitra, Mr. Ishan Roy Choudhary, Mr.
Ashish Chaudhary, Advocates.**

For Respondents

Mr. Dilip Kr. Niranjana, Advocate for R1.

ORDER

22.09.2023: Heard Learned Counsel for the Appellant as well as Learned Counsel for the Respondents.

2. This Appeal has been filed against the order dated 28.08.2023 passed by the Adjudicating Authority (National Company Law Tribunal), Kolkata Bench (Court-II), Kolkata, by which order the Adjudicating Authority dismissed the IA (IB) No.1329/KB/2023 filed by the Appellant where the Appellant, the Suspended Director of the Corporate Debtor has challenged the auction notice dated 30.06.2023. In the Application, following prayers were made:-

“a. Respondent be restrained by an order of injunction either by itself and/or by its men, agents, assigns and/or representatives from taking any steps or further steps and giving any effect or further effect to the Auction to be held on 27th July, 2023 in pursuance of the Sale Notice dated 30th June, 2023, being Annexure- O to this instant application, till the instant application is finally adjudicated.

b. Sale Notice dated 30th June, 2023, being Annexure- O, to this instant application, and all

consequential actions on the basis of the same be declared as illegal, null and void.

c. An order be passed directing the Respondent to provide the Applicant with the Valuation Report of the Corporate Debtor during Corporate Insolvency Resolution Process.

d. An order be passed directing the Respondent to conduct fresh valuation of the Corporate Debtor (In Liquidation).

e. Ad interim order in terms of prayers above;

f. Pass such further or other order or order and/ or direction or directions be given as this Hon'ble Tribunal may deem fit and proper.”

3. The Application has been rejected by the Adjudicating Authority relying on registered valuers reports which was obtained by the liquidator in the liquidation proceedings.

4. The Learned Counsel for the Appellant challenging the order contends that the valuation reports were received after one year from the date when the valuers were appointed and further the Appellant has filed written submissions alongwith e-Assessment Slip issued by the Government of West Bengal, Directorate of Registration & Stamp Revenue dated 01.08.2023 which has shown the total valuation of Rs.19,18,80,119/- for land and building whereas the auction sale has been conducted for an amount of Rs.14.6 Crores as a going concern. It is submitted that the object of the CIRP is to maximize the value of the Corporate Debtor and the Adjudicating Authority committed error in rejecting the Application.

5. Learned Counsel for the Liquidator opposing the submissions of the Learned Counsel for the Appellant contends that the liquidator has obtained

three valuation reports and average valuation report which was submitted by valuer was Rs.1255.29 Lakhs as a going concern. It is submitted that the first auction notice was issued on 22.08.2022 where the reserve price was mentioned as Rs.22.15 Cr. and thereafter six auction notices were issued last being 30.06.2023 where valuation of reserve price was reduced to Rs.14.6 Crores. It is submitted that the liquidator has not committed any error. Even in the response to auction notice, only one person has expressed his interest, which auction has been confirmed.

6. We have considered the submissions of the Learned Counsel for the parties and perused the record.

7. Under the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, Liquidator has appointed valuers and in the valuation report average value has been submitted as Rs.1255.29 Lakh. In the first auction notice issued on 22.08.2022, the reserve price was shown as Rs.22.15 Crores and since no one came forward, the liquidator has to issue auction notice six times and the last was issued on 30.06.2023 for reserve price as Rs.14.6 Crores. Under the Liquidation Regulations, 2016, Liquidator is entitled to reduce the reserve price after each auction notice and when no one came forward, the reserve price was reduced to Rs.14.6 Crores in which we do not find any error. The submission of the Counsel for the Appellant that valuation report was submitted after one year does not improve the case of the Appellant since steps were taken by the Liquidator after the report was received from the registered valuers.

8. Insofar as submission of the Appellant with regard to the e-Assessment Slip dated 01.08.2023 which he filed along with the written submissions, suffice it to say that the said document was not brought before the Adjudicating Authority. There was no opportunity to liquidator to submit any reply or response to said document. Adjudicating Authority has rightly not placed any reliance on the said document. Further the liquidation process has to be conducted in accordance with the Liquidation Regulations, 2016. When liquidator has proceeded as per the Liquidation Regulations and reserve price was reduced from 1st auction notice to 6th auction notice, no error is committed in reducing the reserve price, hence, submission of the Appellant that liquidator has issued auction notice on less valuation cannot be accepted.

9. We do not find any merit in the Appeal. The Appeal is dismissed.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

[Arun Baroka]
Member (Technical)

Anjali/nn