

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 1335 of 2024
& I.A. No. 4378, 4840 of 2024**

In the matter of:

Santosh Kumar Jaiswal & Ors.

....Appellants

Vs.

Meena Sureka, Liquidator

...Respondent

For Appellants

**Mr. Utkarsh Singh, Mr. Turabali Kazmi, Ms.
Hardika Kukreja, Mr. Priyam Tiwari, Mr. Tanay
Dubey, Advocates.**

For Respondent

Mr. Shaunak Mitra, Advocate.

ORDER

(Hybrid Mode)

21.08.2024: **I.A No. 4840 of 2024:-** This is an application for condonation of 14 days' delay in filing the appeal. Cause shown sufficient to condone the delay. Delay is condoned.

Company Appeal (AT) (Insolvency) No. 1335 of 2024 :-

Heard Learned Counsel for the Appellant.

2. This Appeal has been filed against the order passed by the Adjudicating Authority (National Company Law Tribunal) Guwahati Bench, Guwahati, by which order Adjudicating Authority has directed that the amount of Rs.7,50,000/- be remitted in the account of the Corporate Debtor.

3. Counsel for the Appellant submitted that the amount of Rs.7,50,000/- was deposited in pursuance of the OTS proposal which was given to the SBI and this was towards settlement for Rs.50 lakhs against the release of personal guarantee of all promoters, directors. Counsel for the Appellant has referred to letter dated 18.01.2022. He submits that the payment of

Rs.7,50,000/- was paid but ultimately the SBI withdrew the offer and amount to be remitted back only after initiation of proceeding under Section 10, hence, the amount which was arranged by the promoters and the guarantors cannot be asked to be refunded to the account of the corporate debtor.

4. We have considered the submissions of the Counsel for the Appellant and perused the record.

5. The letter dated 18.01.2022 which is referred by the Appellant is written on behalf of the 'Brahmaputra TMT Bars Pvt. Ltd.' and the SBI account statement which is at Page 70 clearly indicates that the amount was transferred from 'Brahmaputra Rolling Mills Pvt. Ltd.'. It is clear that the amount never was transferred from the account of the promoters and the guarantors. Amount having drawn from the account of the corporate debtor, there is no illegality committed by the Adjudicating Authority in directing the amount be remitted to the account of the corporate debtor which was refunded by the SBI subsequent to the initiation of Section 10 IBC proceeding. Adjudicating Authority has given adequate reason for allowing the application in which we do not find any reason to interfere with the impugned order. Appeal is dismissed accordingly.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

[Arun Baroka]
Member (Technical)

Anjali/nn