

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

**Company Appeal (AT)(Insolvency) No. 543 of 2024**

**&**  
**I.A. No. 1930 of 2024**

**IN THE MATTER OF:**

**Adi Impex Infra Services**

**...Appellant**

**Versus**

**Suprintendent of Police, Krishnagiri & Ors.**

**...Respondents**

**Present:**

**For Appellant : Mr. Nakul Mohta, Mr. Amulya Upadhyay, Mr. Mayank Sharma, Advocates**

**For Respondents : Mr. Vishal Gonda, Ms. Akanksha Mathur, Ms. Tanya Hasija and Ms. Devina Bhandari. Advocates.**

**O R D E R**  
**(Hybrid Mode)**

**19.03.2024:** Heard learned Counsel for the Appellant as well as learned Counsel for the Liquidator.

2. This appeal has been filed against the order dated 22.12.2023 passed in I.A. No. 6675/2023. Appellant before us is Auction Purchaser in the liquidation of Corporate Debtor M/s Hema Engineering Industries Ltd. Plant and machinery were sold to the Appellant on 13.04.2023. Appellant could not remove the plant and machinery and had filed an application seeking extension of time which was allowed granting three months' further time by an order dated 09.11.2023. An appeal being Company Appeal (AT)(Insolvency) No. 218 of

2023 was filed by the Appellant which was disposed of by this Tribunal on 02.02.2024 where following order was passed:

...

*“5. From the order, it is clear that I.A. has not been finally disposed of and still pending before the Adjudicating Authority. I.A. being already pending before the Adjudicating Authority, it is always open for the Appellant to file a fresh application giving reasons and praying for further time and the events which took place after passing of the order. We have no doubt that said application shall be considered by the Adjudicating Authority in accordance with law and the observations made on 09th November, 2023 that no further extension will be granted on the next date of the hearing may not be treated as any prohibition on considering any fresh materials or grounds taken by the Appellant.*

*In view of the aforesaid, we are of the view that no purpose shall be served in keeping the Appeal pending. We grant liberty to file a fresh application. Appeal is disposed of, accordingly.”*

3. Thereafter I.A. No. 6675/2023 was filed impleading Police Authorities and Respondent Nos. 1 to 3 and Respondent No. 4 as one Mr. D. Venkatesh Kumar, proprietor of M/s Quick Sort Traders and Liquidator. The Applicant's case was that he could not remove the plant and machinery due to law and order situation and there was an MOU entered between the Appellant with Quick Sort Traders which MOU was subsequently terminated and hence an Application was filed by the Appellant under Section 424(3) of the Companies

Act. It is submitted that the said application has been dismissed by Adjudicating Authority. Adjudicating Authority passed following Order:

....

*“Vide order dated 01.12.2023, we had granted liberty to the Applicant to approach the Police for necessary protection and in case, the Applicant approaches the police and they shall extend necessary cooperation of the Applicant. Mr. Ganda Learned Counsel appearing for the Liquidator has submitted that the asset in question has been sold by the Liquidator to the third person and the payment has been received by the Liquidator and therefore, the Liquidator is no longer in picture insofar as the asset in question is concerned. Keeping in view the facts of the case, we do not feel it appropriate to give any direction to the police as prayed for by the Applicant. However, we give liberty to the Applicant to take approach to the appropriate legal proceedings for necessary relief.*

***IA disposed of accordingly.”***

4. Learned Counsel for the Appellant submits that Appellant was entitled to remove the assets which was sold to him in the liquidation. Time extension was granted by the Adjudicating Authority itself but as proper Police protection was not provided, the said assets could not be removed and in the Application which was filed by the Appellant being I.A. No. 6675/2023, several prayers were made. Adjudicating Authority without issuing Notice and advertng to the prayers made, rejected the Application giving liberty to the Applicant to take proper legal proceedings for necessary relief. It is submitted that assets being part of liquidation sale in favour of the Appellant, Adjudicating Authority is the

appropriate authority to take all proceedings and Adjudicating Authority did not lack jurisdiction to consider application.

5. We have perused I.A. No. 6675 of 2023 filed by the Appellant and the reasons given by the Appellant in sequence as to why assets could not be removed. It was also complained that the Police Officer are not extending the protection for removal of assets despite order dated 01.12.2023 passed by Tribunal.

6. In view of the above, the I.A. No. 6675 of 2023 ought to have been considered after issuing Notice to the Respondent. In the result, we set aside the order dated 22.12.2023 and revive I.A. No. 6675 of 2023. Adjudicating Authority may proceed after issuing Notice to the Respondents and hearing the parties.

Appeal is **disposed of** accordingly.

**[Justice Ashok Bhushan]**  
**Chairperson**

**[Mr. Barun Mitra]**  
**Member (Technical)**

**(Mr. Arun Baroka)**  
**Member(Technical)**

*akc/Mn*