

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

Company Appeal (AT) (Insolvency) No. 1470 of 2023

IN THE MATTER OF:

Pramod Kumar Chaubey

...Appellant

Versus

Praveen Kumar Jain & Anr.

...Respondents

Present:

For Appellant: Mr. Nalin Kohli, Saurajya Nanda, Aastik Dhingra,
Ms. Nimisha Menon, Advocates

For Respondent: Mr. Arun Kathpalia, Mr. K Datta, Sr. Advocates with
Mr. Abhijeet Sinha, Ms. Anjali Sharma, Mr. Apoorv
Tripathi, Mr. Dheeresh K. Dwivedi, Mr. Mayank
Gupta, Mr. Apaan Mittal, Advocates for R-2
Mr. Vishal Ganda, Mr. Ayandeb Mitra, Ms. Tanya H.,
Advocates for R-1

ORDER

10.11.2023: This Appeal has been filed against the Order dated 31st October, 2023 by which the Adjudicating Authority has admitted Section 9 Application filed by Respondent No. 2 herein Mr. Pawan Gaur. Learned Counsel for the Respondents at the very outset submitted that copy of the order which has been filed along with the Appeal is not complete and certain lines in different paragraphs are missing. Learned Counsel for the Respondent has handed over the copy of the Order dated 31st October, 2023 which according to them is correct one. We take the copies of Order dated 31st October, 2023 on record handed over by the Respondent and we proceed to hear the matter on the basis of said order.

2. Learned Counsel for the Appellant submits that the Respondent who was CEO of the Company in India had submitted a resignation which was

accepted and it was communicated that HR shall take steps for settlement of his dues. He submits that a detailed email was sent on 07th June, 2018 by the Respondent Operational Creditor where he has stated that apart from several other claims an amount of Rs. 1.10 Crore is due towards the salaries. Learned Counsel for the Appellant submits that the amount which was Rs. 1.10 Crores in the email dated 07th June, 2018 has subsequently swelled to more than Rs. 3 Crores when the Demand notice was issued on 20th June, 2018. It is submitted by Learned Counsel for the Appellant that there was audit conducted subsequently where several other irregularities have been found. It is submitted that in the financial documents of the Corporate Debtor, there are amounts which are shown as advance against the Respondent-Operational Creditor.

3. Mr. Arun Kathpalia, Learned Sr. Counsel for the Respondent refuting the submissions of Learned Counsel for the Appellant submits that there was no dispute raised at any point of time and when the resignation was accepted immediately it was communicated that HR shall take steps for settlement of the dues and it is the Respondent who has led the Company to huge profits and there is no occasion for any allegations against the Respondent and the Corporate Debtor has denied the rightful claim of the Appellant and even the dues of the provident fund and gratuity fund were paid and subsequently under the orders of the Commissioner the amount of gratuity was paid still the provident fund dues of more than Rs. 24 Lakh is due.

4. Submissions raised by Learned Counsel for the parties need consideration.

5. Issue notice to the Respondent through Speed Post as well as Email. Requisites along with process fee, if not filed, be filed within two days. Reply-Affidavit may be filed within two weeks. Rejoinder, if any, may be filed before the date fixed.

6. To show the bonafide, Appellant shall deposit Rs. 1.10 Crore before the Registrar of this Tribunal in Fixed Deposit Receipt within two weeks from today. Learned Counsel for the Appellant may also obtain instruction with regard to payment of provident fund.

7. List this Appeal on **12th December, 2023**. In the meantime, in pursuance of the Impugned Order, Committee of Creditors shall not be constituted.

[Justice Ashok Bhushan]
Chairperson

[Mr. Barun Mitra]
Member (Technical)

[Mr. Arun Baroka]
Member (Technical)

Basant/nn