

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL. PRINCIPAL BENCH,****NEW DELHI****Comp. App (AT) No. 150 of 2023****IN THE MATTER OF:****Atlas Cycles (Haryana) Ltd.****...Appellant****Versus****New Modern Steel Industries & Ors.****...Respondents****Present:****For Appellant : Mr. Nikhil Nayyar, Sr. Adv. with Mr. Arav Kapoor, Mr. SP Singh Chawla, Advocates****For Respondent :****O R D E R****Per: Justice Rakesh Kumar Jain:**

This appeal is directed against the order dated 11.08.2023, passed by the Adjudicating Authority (National Company Law Tribunal, New Delhi), by which an application bearing T.A. (Co. Act)-02(PB)/2023, purported to have been filed under Rule 16(d) of NCLT Rules, 2016 (in short 'Rules') on 10.01.2023, for transfer of Petitions filed under Section 7 and 9 of the Insolvency and Bankruptcy Code, 2016 (in short 'Code') before the Chandigarh Bench, particular described in Annexure 1, alongwith all the company applications, interlocutory applications and other proceedings to the Principal Bench, New Delhi and to be tagged alongwith CP No. 18/ND/2015, has been disposed of.

2. Shorn of unnecessary details, the brief facts of this case are that two shareholders, namely, Vikram Kapur and Angad Kapur filed CP No. 18/ND/2015 against the Appellant Company and Ors. under Sections 397, 398, 399 & 402 of the Companies Act, 1956 (now, dealt with under Section

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241, 242 & 244 of the Companies Act 2013 consequent upon repealing of Companies Act, 1956). The aforesaid Company Petition was disposed of on 06.12.2022 by the Adjudicating Authority. The relevant part of the order dated 06.12.2022 has been reproduced in Para 2 of the impugned order dated 11.08.2023. The Order dated 06.12.2022 was challenged in appeal i.e. CA (AT) No. 299 of 2022, 13 of 2023, 14 of 2023 and 23 of 2023.

3. The Appellant Company filed an application dated 10.01.2023 i.e. T.A (Co. Act)-02(PB)/2023 before the Adjudicating Authority, Principal Bench, New Delhi for orders of the Hon'ble President in terms of Rule 16(d) r/w Rule 11 of the NCLT Rules, 2016 for transfer of about 34 cases filed under Sections 7 and 9 of the Code against the Appellant Company and pending before the Chandigarh Bench, inter alia, on the ground that vide order dated 06.12.2022, a new board of directors has been appointed for the Company with a mandate to revive it which shall have a positive impact and shall lead to resolution of the proceedings before the Chandigarh Bench in the matters pertaining to the Code in case of its revival, therefore, it would be just and necessary that all the 34 cases pending before the Chandigarh bench be transferred to the Principal Bench and tagged alongwith the pending petition filed i.e. CP No. 18 of 2015.

4. On 24.01.2023, the Adjudicating Authority, Principal Bench, New Delhi passed the following order:-

“This is an application filed for the Transfer of cases from NCLT, Chandigarh Bench to the Principal Bench, New Delhi based on the order passed by the Principal Bench in CP No. 18(ND)/2015. The Registry is directed to take a report of the list of cases and send the report of all cases pending before NCLT, Chandigarh as per Annexure 1.

In the meanwhile, NCLT Chandigarh Bench is directed to, not to proceed further in these matters, awaiting decision in these petitions.

List the matter again on 20.02.2023 for a physical hearing.”

5. Thereafter, the Appellant Company filed CA/138(PB)/2023 in CP 18 of 2015 under Rule 11 of NCLT Rules, 2016 r/w Section 242(4) of the Act, 2013.

In this application, the following prayers were made:-

“a. Staying the demand of dues and the institution and continuation of suits and other legal proceedings by any creditor of the Applicant or any statutory and other authority/party Including any public utility provider directly or indirectly including proceedings under or pursuant to the Code or the MSME Act or any other Act or Regulation against the Applicant Company in any Court of Law, Tribunal, Authority, Arbitration Panel or Arbitration Authority for a period of Six Months or till further orders whichever is earlier

b. Direct that no coercive action shall be taken by any statutory authority, public utility provider or stock exchange or revenue authority without the leave of the Tribunal in next period of Six months or till further orders whichever is earlier

c. Interim/Ad-interim reliefs in terms of prayer (a) and (b) above;

d. For such further and other reliefs as this Hon'ble Tribunal may deem fit and proper in the interests of justice.”

6. This application was allowed on 11.07.2023 with the following order:-

“in view of the aforesaid reasons, we order as follows:-

1. There shall be an order of interim stay on demand of all and any dues against the Applicant, institution and continuation of suits or other legal proceedings by any creditor of the Applicant or any statutory or other authority including any public utility provider including proceedings under IBC or the MSME Act or any other Act or Regulation against the Applicant Company in any Court of Law, Tribunal, Authority, Arbitration Panel or Arbitration Authority for a period of 6 months from the date of order;

ii. No coercive action shall be taken by any statutory authority, public utility provider, stock exchange or revenue authority till 6 months from the date of this order.”

7. However, CA (AT) No. 299 of 2022 alongwith three other appeals i.e. 13 of 2023, 14 of 2023 and 23 of 2023 were heard together by this Tribunal on 02.08.2023 and set aside the impugned order dated 06.12.2022, remanded the case back to the Adjudicating Authority to decide not only CA No. 272 of 2016 by which a preliminary issue has been raised by Respondent No. 1 & 12 to 16 but also to decide CA No. 533 of 2020 filed under Section 244 of the Act, 2013 after giving due opportunity to the Respondents (contesting respondents) and for passing a speaking order.

8. The present application i.e. T.A. (Co. Act)-02(PB)/2023, which was still pending, was taken up for hearing and has been disposed of with the following observations:-

“5. This matter was mentioned yesterday and listed today. In view of the order passed by the Hon'ble NCLAT in Company Appeal (AT) No. 13/2023 setting aside the order of this Tribunal dated 06.12.2022, the cause for which the application has been filed for consolidation does not survive at this point of time.

6. The main case has to be adjudicated by this Tribunal on merits as directed by the Hon'ble NCLAT, Therefore, the issue of restraining the benches at Chandigarh from proceeding with the IBC matter has no relevance and hence should be allowed to go on without any further delay.

7. The interim direction passed by the Principal Bench stands vacated and the NCLT Chandigarh Bench where the other IBC matters connected to this company are listed, is directed to be heard expeditiously on merits without delay. It is further directed that intimation to all necessary and participating parties to the IBC cases- petitioners and appearing respondents be duly notified by advance cause list, e-mail communication by IBC petitioners counsel indicating an earlier date for hearing preferable 28th August, 2023 for first hearing and further dates as may be necessary appearance of parties. This TA (Co. Act),02(PB)/2023 stands disposed of in above terms.”

9. Aggrieved against this order, the present appeal has been preferred in which Sr. Counsel for the Appellant has reiterated the stand taken in the application itself that the main purpose is to revive the Company for which the order dated 06.12.2022 was passed and thus, it would be just and expedient if all the cases, filed under Section 7 and 9 of the Code against the Appellant Company, pending before the Chandigarh Bench are transferred to the Principal Bench and tagged alongwith the Company Petition.

10. We have heard Counsel for the Appellant and perused the record with his able assistance.

11. The main plank of argument of the Appellant is the order dated 06.12.2022 by which a new board was put in place. However, this Tribunal in its order dated 02.08.2023 found that the application i.e. CA No. 272 of 2016 in which a preliminary issue was raised by the Respondents about the maintainability of the application escaped the notice of the Tribunal while passing the order on 06.12.2022 and that the application i.e. CA No. 533 of 2020 filed under Section 244 of the Act, 2013 was not decided in accordance with law.

12. In such circumstances, once the order dated 06.12.2022 does not survive, having been set aside by the order dated 02.08.2023, the Adjudicating Authority has committed no mistake in declining the prayer of the Appellant for consolidation of all the cases and getting them transferred, exercising its power under Rule 16(d) of the Rules, to the Principal Bench and further to tag alongwith the present Company Petition.

13. In view of the aforesaid facts and circumstances, we do not find any merit in the present appeal and the same is hereby dismissed though without any order as to costs.

**[Justice Rakesh Kumar Jain]**  
**Member (Judicial)**

**[Mr. Naresh Salecha]**  
**Member (Technical)**

**New Delhi**

**01<sup>st</sup> September, 2023**

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