

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Ins.) No. 58 of 2024

IN THE MATTER OF:

Bansal Ship Breakers

....Appellant

Vs.

Great United Energy Pvt. Ltd. □

....Respondent

Present:

For Appellant: Mr. Akshay Jain, CA, Mr. Alok Kumar, Advocate

For Respondent: Mr. Aniruth Purusothaman, Mr. Rajesh Mittal, for
Liquidator

O R D E R
(Hybrid Mode)

19.01.2024: Heard Counsel for the Appellant as well as Ld. Counsel for the liquidator.

2. This appeal has been filed against the order dated 22.11.2023 passed by National Company Law Tribunal, Mumbai Bench-I in IA No. 372/2021.

3. Adjudicating Authority has partly allowed the IA No. 372/2021 and 820 of 2021 in paragraph 8.3 following direction have been issued:

“8.3 As regards Liquidator’s claim for the Port Charges, we find that the sale was concluded on the ‘as is where is basis, as is what is basis, whatever there is and No recourse basis’, and the Auction Buyer was liable to bear the port charges after issuance of sale certificate. In the present case the sale certificate was issued on 26.02.2020, the port charges after this date are payable by the Auction buyer. The Liquidator may appropriate the amount of Port Charges determined accordingly and set off against the GST amount held refundable as aforesaid”.

4. Ld. Counsel for the Appellant contended that the Appellant who is Successful Bidder was not handed over the possession of the Ship, Hence, he is not liable to pay the port charges. It is submitted that he having not received the possession there was no liability to fastened on the Appellant for port charges.

5. The fact remains that the Appellant has received the possession of the ship on December, 2020 and the port charges accrues on the ship since, it was laying in the port and we are of the view that no illegality has been committed by Adjudicating Authority directing the port charges and adjusted and set off against the GST amount which is to be refunded to the Appellant.

6. Ld. Counsel for the liquidator further submits that after impugned order appellant has written to the liquidator that he is ready to comply the order and hence liquidator has already sent the Cheque for amount to be refunded to the Appellant which has been encashed.

7. In view of the aforesaid reason, we do not entertain the appeal.

8. Recording the aforesaid statement, we close the case.

[Justice Ashok Bhushan]
Chairperson

[Justice Anant Bijay Singh]
Member (Judicial)

[Mr. Barun Mitra]
Member (Technical)