

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

**Company Appeal (AT) (Insolvency) No. 476 of 2024**

**IN THE MATTER OF:**

**Shree Padmawati Metaliks Pvt. Ltd.**

**...Appellant**

**Versus**

**State Bank of India**

**...Respondent**

**Present:**

**For Appellant: Mr. Vivek Sibal, Sr. Advocate with Mr. Rahul Sharma, Mr. Ayush Bhatia, Advocates.**

**For Respondents: Mr. Ashish Choudhury, Mr. Santosh Kr. Ray, Mr. Akash Tandon, Ms. Mansi Chaudhry, Advocates for R-1.**

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

**15.03.2024:** Heard learned counsel for the Appellant. This Appeal has been filed against order dated 18.01.2024 passed by the Adjudicating Authority (National Company Law Tribunal), Kolkata Bench by which order the Adjudicating Authority has permitted the rejoinder to be taken on record subject to payment of cost of Rs.10,000/-.

2. Learned counsel for the Appellant challenging the order contends that the said rejoinder was taken on record after conclusion of the hearing of the Financial Creditor. It is submitted that the Adjudicating Authority ought not have been taken on record the rejoinder since no liberty was earlier sought for filing of rejoinder. It is submitted that after completion of hearing rejoinder ought not to have been filed.

*Cont'd.../*

3. We have considered the submissions of learned counsel for the Appellant and perused the record.

4. The Adjudicating Authority in Para 11 of the order impugned observed following:

*“11. No doubt, the rejoinder, if any, normally was required to be filed before the commencement of arguments, however, keeping in view the facts and circumstances as explained in para 3 of this IA that the rejoinder could not have filed because of the lapse on the part of earlier lawyer and the Financial Creditor, therefore, changed its lawyer for further contesting this case. We are also of the view that the Financial Creditor cannot be made to suffer for the lapse of his counsel, therefore, ends of justice would require this rejoinder to be taken on record. We are of the considered opinion; no prejudice is going to be caused to the Corporate Debtor while arguing its plea of bar of limitation of this petition.”*

5. When the Adjudicating Authority found fit to take rejoinder on record subject to payment of cost of Rs.10,000/-, we are of the view that discretion exercised by the Adjudicating Authority need not be interfered with by this Tribunal in exercise of its appellate jurisdiction. It is true that normally pleading are completed before commencement of hearing but in facts of the present case, the rejoinder affidavit was taken during course of the hearing. We are of the view that no rule preclude such a course by the Adjudicating Authority. We, thus, are of the view that appeal need not be entertained. We,

however, are of the view that rejoinder having been taken on record, the Appellant shall be given opportunity to make his submission in that regard also. With these observations, we dismiss the appeal.

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

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

**[Arun Baroka]**  
**Member (Technical)**

*Archana/nn*