

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 642 of 2024

IN THE MATTER OF:

DCB Bank

...Appellant

Versus

**Simplex Projects Ltd.,
Through Its RP Sutanu Sinha**

...Respondent

Present:

**For Appellant : Mr. Krishnendu Datta, Sr. Advocate along with
Ms. Pratiksha Sharma, Mr. Ankit Acharya, Mr.
Varun Kothari, Ms. Niharika Singh and Ms. Ritu
Chaudhary, Advocates.**

For Respondent : Advocate Kanishka Prasad.

O R D E R
(Hybrid Mode)

19.04.2024: Heard Counsel for the Appellant as well as Learned Counsel appearing for the Resolution Professional (RP).

2. This Appeal has been filed against the impugned order dated 30.01.2024 passed by the Learned Adjudicating Authority (National Company Law Tribunal, Kolkata Bench, Kolkata), in I.A. (IBC)/909(KB)2023. I.A. (IBC)/909(KB)2023 was filed by the RP on which following order was passed:

“a. Ld. Counsel appearing for the respondents mentioned in pages 12 and 13 of the reply, the DCB Bank is directed to refund the entire money against the first five entries starting from 28.04.2022 and ending on 10.06.2022, or in page no. 12 of the IA(I.B.C)/909(KB)2023 within a period of ten days.

b. Registry is directed to issue notice to DCB Bank by way of speed post and by e-mail and place the tracking information report on record.

c. Ld. Counsel appearing for the said Bank is also at liberty to indicate this order of the Bank Officers.

d. *List this matter for arguments on 05.03.2024.”*

3. Learned Counsel for the Appellant submits that although in I.A. (IBC)/909(KB)2023, Notices were issued and Reply was called for and Bank has already filed the Reply but while issuing the directions, Adjudicating Authority has not considered the Reply and directed for the refund of the entire money.

4. Learned Counsel for the RP submits that on the said date, Counsel for the Appellant was present and was also heard and after hearing both the parties, the directions were issued.

5. When we look into the order impugned, it is clear that the order contains only direction to refund the money without noticing or considering any of the Reply of the Appellant which is on record as submitted by the Appellant.

6. Learned Counsel for the Appellant has referred to the order passed by the Adjudicating Authority on 20.03.2024 in I.A. (IBC)/909(KB)2023 and submits that now the application has already been listed for 22.04.2024.

7. In view of the fact that application I.A. (IBC)/909(KB)2023 is still pending and has not been disposed of and now fixed for 22.04.2024, we are of the view that Adjudicating Authority may consider the submissions of both the parties afresh and pass an order on I.A. (IBC)/909(KB)2023.

8. In result, the direction issued on 30.01.2024 is set aside. We make it clear that we are not expressing any opinion on the merits of the application filed by the RP. It is for the Adjudicating Authority to consider the application and the reply and take an appropriate decision accordingly.

The Appeal is disposed of.

**[Justice Ashok Bhushan]
Chairperson**

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

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

himanshu/nn