

NATIONAL COMPANY LAW APPELLATE TRIBUNAL

CHENNAI BENCH

Company Appeal (AT) (CH) (Ins) No. 380 of 2023
(IA Nos. 1156, 1157 of 2023)

IN THE MATTER OF:

Mrs. Palaniammal & 2 Ors.
Versus

...Appellants

Revathi S. Raghunathan,
Resolution Professional of
Gokulakannan Benefit Fund Limited
Present

...Respondent

For Appellants : Mr. A.M. Sridharan, Advocate
For Respondents :

O R D E R
(Virtual Mode)

06.11.2023: This appeal is directed against the order dated 25.08.2023 by which an application bearing MA/679/2019 filed by the Resolution Professional under Section 66 of the IBC, 2016 (Code) has been allowed and the following order has been passed.

“(i) The First Respondent, Mrs. Palaniammal is directed to pay a sum of Rs. 10,41,000 (Rupees Ten Lakhs Forty-One Thousand only) within a period of 30 days from the date of this Order.

(ii) The Second Respondent, P.Sakthivel is directed to pay a sum of Rs. 2,27,800 (Rupees Two Lakhs Twenty-Seven Thousand Eight Hundred only) within a period of 30 days from the date of this Order.

(iii) The Third Respondent, Gokula Kannan Trade Finance is directed to pay a sum of Rs. 18,000 (Rupees Eighteen Thousand only) within a period of 30 days from the date of this Order”.

To arrive at the aforesaid conclusion, the tribunal has found as under:

“12. It is seen from the bank statements i.e., Annexures A, B & C of the application typeset that

a) the 1st Respondent Mrs. Palaniammal, mother of Suspended Director, the Second Respondent herein has withdrawn a total sum of Rs. 10,41,000 on 05.09.2017, 27.07.2017, 13.06.2017, 26.05.2017 and 10.05.2017.

b) the 2nd Respondent Mr. P.Sakthivel, the Suspended Director has siphoned off the total sum of Rs. 2,27,800 on 19.05.2018 and 06.11.2017.

c) the 3rd Respondent, the related party has withdrawn a total sum of Rs. 18,000 on 17.09.2018.

13. In support, RP has placed the copies of Bank Account of the Corporate Debtor.

14. It is also seen from the counter that there was no denial by any of the respondents that amount was not received or were received for specific purpose. The Respondents has not attached any supporting, sufficient or concrete evidence for claiming any expense for and on behalf of the Corporate Debtor along with the Counter affidavit”.

Counsel for the appellant has vehemently argued that the amount said to have been paid to the appellant can be treated as loan and in this regard he has made the following averments in the appeal:

“Assuming but not admitting the 1st and 2nd appellants have withdrawn money from the bank account of the corporate debtor, the same can be treated only as loans and advances made in the ordinary course of business. It is pertinent to note that the respondent resolution professional did not file any rejoinder rebutting the claim of the appellants”.

We have heard Counsel for the appellant and after perusal of the record are of the considered opinion that in the absence of any evidence that the amount withdrawn for the appellant was advanced as loan, the submission made by the appellant cannot be accepted as it would be a bald assertion only.

Thus, in view of the aforesaid facts and circumstances we do not find any error in the impugned order which calls for any interference and the same is hereby dismissed.

[Justice Rakesh Kumar Jain]
Member (Judicial)

[Shreesha Merla]
Member (Technical)

sr/rr/kr

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