

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**PRINCIPAL BENCH: NEW DELHI**  
**Company Appeal (AT) (Insolvency) No. 224 of 2024**

**[Arising out of the Order dated 07.12.2023, passed by the 'Adjudicating Authority' (National Company Law Tribunal, New Delhi, Court-III), in IA No. 2490/2022 in CP (IB) No. 607/ND/2018]**

**IN THE MATTER OF:**

**1. Bimal Kumar Jejani**

s/o Om Prakash Jejani  
r/o 3D Mayberry Apartment,  
Sahay Road, Lalpur,  
Ranchi – 834001.

**...Appellant No.1**

**2. Sachin Sehgal**

s/o Subhash Chander Sehgal Singh,  
R/o 41, Glanleam Road,  
Stanmore,  
London HA 74 NW,  
United Kingdom  
Through power of Attorney  
Bimal Kumar Jejani  
s/o Om Prakash Jejani  
r/o 3D Mayberry Apartment  
Sahay Road, Lalpur,  
Ranschi – 834001

**...Appellant No. 2**

**3. Ravindra Banthia,**

s/o Lt. Roop Chand Bathia,  
R/o Srijan Heritage,  
135 A SP Mukherjee Road,  
Kolkata 700026

**...Appellant No.3**

**Versus**

**1. M/s Star Mineral Resources Pvt. Ltd.**

(dissolved) through its Liquidator  
Mr. Naresh Kumar Bansal  
KD – 138, First Floor,  
Pitampura  
Delhi - 110034

**...Respondent**

**Present:**

**For Appellant : Ms. Sakshi Tikmany & Mr. Akshat Gupta  
Advocates.**

**For Respondent : Mr. Naresh Kumar Bansal & Ms. Kritika Bansal,  
Advocates.**

**J U D G M E N T**  
**(Hybrid Mode)**

**[Per: Justice Mohd. Faiz Alam Khan, Member (Judicial)]**

The instant appeal under Section 61 of the Insolvency and Bankruptcy Code, 2016, has been preferred by the Appellant challenging the order dated 07.12.2023 passed by the National Company Law Tribunal, New Delhi Court III pertaining to I.A. No. 2490 of 2022 in CP (IB) No. 607/ND/2018 wherein certain observations have been recorded by the Tribunal against the Appellants.

2. Brief facts which appears to be necessary for the disposal of the instant appeal are that an application under Section 9 of the Insolvency and Bankruptcy Code, 2016 (IBC) was filed by the Operational Creditor i.e. M/s Platina Bulkera Private Limited Against the Corporate Debtor i.e. M/s Star Mineral Resources Private Limited. The said application was admitted and CIRP was initiated vide order dated 17.12.2018 passed by the Adjudicating Authority. A moratorium was accordingly declared and Mr. Akarsh Kashyap was appointed as IRP who was subsequently confirmed as RP.

3. As the resolution professional could not call for any resolution plan for want of specific information pertaining to the assets and liabilities and the account book of the corporate debtor the liquidation proceedings were initiated by learned Tribunal vide order dated 10.02.2020 and Mr. Naresh Kumar Bansal was appointed as the liquidator.

4. The Liquidator appears to have made all attempts to collect financial information pertaining to the Corporate Debtor(CD), its accounts books,

assets and liabilities etc. however, as per the stand of liquidator the Suspended Directors of the CD did not supply required information and thereafter the liquidator had moved an application bearing I.A. No. 2490 of 2022 requesting learned Tribunal to exclude the time period of 746 days from the total time consumed for completion of resolution/liquidation of Corporate Debtor in terms of Section 60 (5) of the IBC read with regulation 44(2) of the Insolvency and Bankruptcy Board of India (Liquidation Process) regulations, 2016 herein offer called as (Liquidation Regulations) which has been disposed by passing the impugned order and in para 7(ii) of the same following observations have been made by learned Tribunal

*“We find that this Adjudicating Authority (Bench-III) vide order dated 607(ND)/2018. Since, then the suspended Board of Directors of the 17.12.2018 was pleased to admit the Company Petition (IB). Corporate Debtor have not been cooperating with the IRP/RP and with the Liquidator to provide any statutory books and accounts. This Adjudicating Authority issued private notice, summons and warrants still no one appeared and provided any details. Resolution professional had filed an application under section 70 of the IBC, 2016 which was forwarded to the IBBI for action. IBBI had filed the prosecution against all the members of the Board with the Court of District and Sessions Judge, South West, Dwarka. New Delhi as Ct. Case 170/2020 and the case is pending for execution. After analyzing all the reasons mentioned above we are of the view that no useful purpose will be served in exclusion or extension is granted to the Liquidator.”*

5. The Appellants who are the Suspended Directors of the CD, feeling aggrieved by the above observation of learned Tribunal has preferred this appeal with the prayer to quash/set aside the aforesaid observation made by learned Tribunal in paragraph 7 (ii) of the impugned judgment.

6. We have heard Ld. Counsel for the parties and have perused the record as well as the written submissions filed by the parties.

7. Learned counsel for the Appellant submits that the Appellants were neither involved in day to day affairs or management or operations of the Corporate Debtor nor they have ever received any communication regarding the CIRP process and as such there could not be any non-cooperation from their end, as observed by learned Tribunal.

8. Elaborating further, it is submitted that in April 2014 Mr. Gagan Shukla, a Promoter Director of the CD, had approached appellants seeking financial support and assured guaranteed returns of at least 2% per month. Believing on the proposal made by Mr. Gagan Shukla, the appellants on 16.07.2014 agreed to invest Rs. 5,00,00,000/- (Five Crores) in the Corporate Debtor, partly by way of investment in equity shares of the CD and partly by lending interest free loan and accordingly an agreement was executed on 16.07.2014 and Rs. 5,00,00,000/- (five Crore) as well as additional sum of Rs. 49,99,950/- (Forty-Nine lacs Ninety-Nine Thousand Nine Hundred Fifty) was paid to the CD and as per the terms of the agreement 51% of the equity in the CD would be held by the financiers and they would further have three Directors on the Board of Corporate Debtor, and it is in this background the Appellants were nominated to the Board of Directors by the financiers as non-executive directors.

9. It is further submitted that the managing of day to day affairs and operation of the CD had remained with the promoter directors

only and a specific clause 1(iii) in this regard was written in the agreement executed at between the parties.

10. It is further submitted that the entire business of the Corporate Debtor was handled by the previous Board of Directors headed by Mr. Gagan Shukla and Appellants were not involved at all therein and they have not signed any documents or any financial statements including balance sheets or Profit and Loss statements or annual returns/ annual reports of the CD.

11. It is further submitted that the Appellants are themselves victim of a fraud perpetrated on them by the CD and Mr. Gagan Shukla and they have suffered huge losses of more than 5,00,00,000/- (five crores) and in this regard a police complaint has also been filed by them on 23.12.2022.

12. It is also submitted that no notice of the meeting of the CoC was ever issued to the Appellants and it appears that the emails and communications were only sent by the IRP to Mr. Gagan Shukla/Promoter Director of the CD and no communication was ever received by the Appellants regarding on going CIRP of the CD.

13. It is also submitted that even no notice of the application moved under Section 19(2) of IBC was ever received by the Appellants.

14. It is also submitted that the Resolution Professional has also filed an application before the learned Tribunal under Section 70(1) of the IBC for prosecution of the officers of the Corporate Debtor including the Appellant therein. However, there was no specific

allegation of non-cooperation against the Appellants and only vague allegations were levelled therein.

15. It is vehemently submitted that the Appellants have never received any communication of the resolution process of the CD and since the appellants were not possessing any document pertaining to the CD, they were not in a position to provide the same to the RP or Liquidator.

16. It is also submitted that the process issued by learned Tribunal through registered post has also not ever served on Appellants and the record of the Tribunal would reveal itself that the notice sent to the Appellant No. 1 has been returned with insufficient address and endorsement while the Appellant No. 2 is a resident of United Kingdom for the last ten years.

17. It is also submitted that even the Dasti warrants taken by the RP/IRP has not been served on the Appellants and they came to know the pendency of the CIRP against the Company Debtor when they received the process from the criminal court of Delhi pertaining to the prosecution initiated against them and they immediately sent communication to the Liquidator and also attended the meeting of the Committee of stakeholders of the CD on 29.04.2023.

18. It is further submitted that the application moved by the respondent under Section 19 and 70 of the IBC pertaining to the alleged non-cooperation of appellants have yet not been decided by the Tribunal and there was absolutely no need to make impugned observations in disposal of the application moved by the liquidator for

extension of time. Learned counsel for the appellants has relied on the law laid down by Hon'ble Supreme Court in '*Uma Nath Pandey and Ors. Vs. State of U.P and Anr.*' reported in (2009) 12 SCC 40.

19. It is also submitted with considerable force that the aforesaid observation has been recorded by the learned Tribunal without providing any opportunity of being heard to the Appellants and therefore the same violates the principle of natural justice thus the same be quashed/set-aside.

20. Learned counsel for the Respondent/Liquidator submits that the instant appeal is not maintainable in view of the provision contained under Section 61 of the IBC as the Appellant may not be classified as 'aggrieved person'. While drawing the attention of this court towards many documents available on record it is submitted that Appellant No. 3 Ravindra Banthia has deliberately mentioned his wrong address in order to misguide the Appellate Tribunal whereas as per the MCA data base, correct address of the respondent no. 3 is mentioned and all communication have been sent on this address.

21. It is further submitted that all communications were sent to the Appellants on their emails provided by them in the MCA data base and also available on Master Data with a specific direction to them to handover the books of accounts of the CD and other requisite information and documents, however, no response was received from any of the Suspended Directors and thereafter on 21.01.2019 an application under Section 19(2) and 19(3) of the IBC bearing No. CA 121/2019 in CP No. IB/607/ND/2018 was filed by him requesting the

Adjudicating Authority to direct Suspended Directors to supply all desired information and books of accounts of the Corporate Director, where on learned Tribunal has passed an order on 13.05.2019 directing the IRP to issue notices to all respondents.

22. It is further submitted that on 18.05.2019 IRP issued notices to all respondents including auditor of the CD which were duly served on appellants Sachin Sehgal and Ravindra Kumar Banthia while the other envelopes were returned back with the remarks of 'move out' for Mr. Gagan Shukla and Ms. Kalyani Shukla and 'left out' for Mr. Bimal Kumar Jejani.

23. It is further submitted that after taking charge from the earlier RP, Mr. Naresh Kumar Bansal newly appointed RP also wrote to all Suspended Directors through emails seeking requisite information relating to Corporate Debtor but the same was never supplied and in this regard the RP was compelled to file an application under Section 70 of IBC bearing No. 768 of 2019 and a separate complaint was also filed on 21.10.2019 with IBBI for taking necessary action against the Suspended Directors.

24. It is further submitted that on 25.10.2019 under the orders of the learned Tribunal notices were sent with regard to the application filed under Section 70 of the IBC, to all Suspended Directors for their personal appearance and though the notices were served through speed post and email but there was no response from the Suspended Directors except Mr. Gagan Shukla and M/s Kalyani Shukla.



25. Learned counsel for the respondent further submits that the Suspended Directors including Appellants have deliberately avoided their presence despite emails were sent to them on 03.08.2019, 05.08.2019, 06.08.2019, 12.08.2019, 24.08.2019, 25.10.2019, 30.10.2019, 05.11.2019, 06.02.2021, 08.02.2021, 16.02.2021, 21.04.2023, 25.04.2023, 29.04.2023 and 02.05.2023.

26. It is also submitted that on 09.12.2023 the respondent communicated to all concerned persons about the dissolution order dated 07.12.2023 passed by learned Tribunal which was admittedly received by Appellant Mr. Bimal Jijani, while surprisingly no such process issued to him in the past was acknowledged by him which was sent on the same email and portal address.

27. While drawing attention of this Appellate Tribunal on the observations made at in para 7(ii), it is submitted that these observations have been made on the basis of the record available with the Tribunal and could not be said to have been made without any substance and material.

28. It is further submitted that it is hard to believe that after investing money to the tune of Rs. 5,49,99,950/-(Five Crore Forty-Nine Lacs Ninety-Nine Thousand Nine Hundred Fifty) on or around 16.07.2014 and after becoming the Director in the CD and having 51% equity the Appellants were not aware of anything with regard to the CIRP of the CD and of the liquidation of the same.

29. It is further submitted that the Appellant were actively involved in the day to day affair of the CD and were having knowledge of all the

process issued to them and all the communications, notices, private summons were dispatched to them at their last recorded address with MCA Data base and if there is any change in the same, the directors were legally liable to inform the MCA with regard to the alleged change of address as provided under rule 12 of the Companies (appointments and qualification of directors) rules 2014.

30. It is submitted with considerable force that the Appellants have been communicated on their email addresses provided by them in the MCA Data base and the Appellants have now appeared and filed the appeal as they are being criminally prosecuted and in order to carve out a defence in the criminal prosecution they have, filed the instant appeal which is liable to be dismissed.

31. Having heard learned counsel for the parties and having perused the record, it is transpired that Appellants are claiming themselves to be aggrieved by the observations of learned Tribunal made in para 7 (ii) of the impugned order wherein it is observed that the Suspended Board of Directors of the CD have not been cooperating with the IRP/RP and also with the Liquidator to provide any statutory books and accounts and despite Adjudicating Authority issued private notice, summons and warrants, to them but no one appeared and provided requisite information and also that on a complaint filed by the RP, They are being criminally prosecuted.

32. The record would sufficiently demonstrate that IRP/RP/Liquidator have sent processes of the Tribunal to the Appellants and other Suspended Directors of the CD on their email

addresses and postal addresses, provided in the MCA data base by themselves, as the Directors of the CD.

33. It is also evident that when IRP/RP/Liquidator has sent various communications to the Appellants and other Suspended Directors of the CD, and in pursuance of the same Promoters Directors of the CD namely Gagan Kumar Shukla and Ms Kalyani Shukla have appeared before the Tribunal and also in the meeting of the CoC, thus when process has been sent on the official email of the appellants which was available on the MCA Data and two directors have appeared on account of such service, it could not be believed that appellant were not served by these processes. Moreover, Appellant No. 2 and 3 have also been served through process sent via post.

34. It is also conspicuous that notices and process of the Tribunal were sent to the Appellants and other Suspended Directors of the CD on their email Id and postal address as recorded in the records of MCA. We find force in the submissions made by learned counsel for the Respondent that if Appellants are claiming that they were not residing at the address which they have provided in the MCA Data base or to ROC they should have informed the appropriate authority with regard to the alleged change of address, which is not emerging from the record. The fact of issuance of notices and other process under the orders of the Tribunal is conspicuously evident from the record furnished before this Tribunal and it also appears to be an admitted situation that no record has either been given to the IRP/RP

or Liquidator by the Promoter Directors namely Gagan Kumar Shukla and Ms Kalyani Shukla, nor by the directors who are Appellants before us and in this scenario the order pertaining to the dissolution of the CD was passed by the Adjudicating Authority by passing the impugned order. It is also hard to believe that despite investing about 5.5 crores in the CD, the Appellant Directors would not be having any information with regard to the commencement of the CIRP of CD and also of its liquidation. What is transpired from the record is that on a complaint made by RP to the IBBI criminal prosecution has been launched against the Appellants, and they are appearing before the criminal court and the instant appeal appears to have been filed only for the purpose of taking a defence therein, otherwise there appears no reason for the appellants to have felt aggrieved by impugned observations made by tribunal in para 7(ii) as only facts have been reiterated by the Tribunal, in order to justify dissolution of the CD.

35. Keeping in view all the facts, circumstances and documentary evidence available on record, we are of the considered view that learned Adjudicating Authority has done nothing wrong in observing that Suspended Board of Directors of the Corporate Debtor were not cooperating with the IRP/RP/Liquidator and did not provide any statutory books and accounts and also in observing that despite issuing private notice, summon and warrants appellant did not appear and provided requisite details pertaining to the CD. It is also worth noticing that in the same breath learned Tribunal has also

recorded that on the basis of a complaint lodged by the RP with the IBBI the prosecution against all the members on the Board of the CD has been initiated and the same is pending for adjudication in District and Session Court South West Dwarika, New Delhi. Thus in para No. 7(iv) 1d. Tribunal has only recorded facts in order to arrive at a conclusion as to whether the liquidation proceeding of the CD be continued or an order of its dissolution be passed and in fact the tribunal in impugned para has given reasons for opting dissolution of CD.

36. So far as the reliance of learned counsel for the appellants on Uma Nath Pandey (supra) is concerned the said law propounded by the Hon'ble Supreme Court may not be of any help to appellants, as in the instant case at hand IRP/RP and Tribunal has made sincere efforts for providing opportunity of being heard to the appellants and so much so, coercive process has also been issued against them, but they did not appear in time before the Tribunal. Thus, there appears no violation of any principle of natural justice in this case.

37. We are of the view that the observations (narration of facts) made by the Tribunal in para No. 7(ii) of the impugned order are emerging from the record and could not be said to have been made without any basis and we do not find any ground on the basis of which the impugned order or observations made by the learned Tribunal in para No. 7(ii) of the same may be interfered with.

38. Thus, in view of the discussion made herein before and reasons recorded we do not find any good ground to interfere either in the impugned judgment or in the observations made by learned Tribunal in para 7 (ii) of the same, resultantly. The appeal filed by the Appellant thus fails and is **dismissed** as such. However, there would not be any order for cost. Pending I.A. if any is also disposed of accordingly.

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

**[Justice Mohd. Faiz Alam Khan]**  
**Member (Judicial)**

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

**New Delhi.**  
**06.08.2025.**

*Shweta*