

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

**Company Appeal (AT) (Insolvency) No. 117 of 2018**

**IN THE MATTER OF:**

**Mahesh Kumar Panwar**

**...Appellant**

**Vs**

**Abhishek Anand**

**....Respondent**

**With**

**Company Appeal (AT) (Insolvency) No. 185 of 2017**

**IN THE MATTER OF:**

**Mahesh Kumar Panwar**

**...Appellant**

**Vs**

**Neelam Singh & Anr.**

**....Respondents**

**Present:**

**For Appellant: Mr. Arvind Kumar, Advocate.**

**For Respondents: Mr. Anukul Raj, Mr. Rahul Shukla, Ms. Nikita Raj  
and Mr. Bhuvan Ravindran, Advocates.**

**O R D E R**

**23.08.2018:** Mr. Arvind Kumar, Advocate submits that the counsel in the present case is suffering from illness but on such ground appeals cannot be adjourned, as same prayer was made on earlier dates also. Therefore, we are not inclined to grant any further adjournment.

2. In this connection, we may refer to our order dated 20<sup>th</sup> August, 2018, which reads as follows:

**“O R D E R**

**20.08.2018**      *The matter has been listed after the Hon’ble Supreme Court’s direction. We intended to dispose of the case on merit and on 30<sup>th</sup> May, 2018 the following order was passed :*

*“In view of the order passed by the Hon’ble Supreme Court in Civil Appeal No. 4300 of 2018, it is informed that the appellant has deposit a sum of Rupees One Crore with the Registrar of the National Company Law Appellate Tribunal (NCLAT). However, it is not clear as to what order this Appellate Tribunal can pass once the liquidation proceedings has been started.*

*However, in view of the Hon’ble Supreme Court’s order, we give one opportunity to the counsel for the appellant to show the illegality, if any, in the order which was impugned in the appeal and as to how the ‘Corporate Debtor’ can be allowed to take over the company when the ‘Resolution Plan’ was submitted by it prima facie, it appears to be in violation of Section 29A of the Insolvency and Bankruptcy Code, 2016.*

*Post the case for 'orders' on 11<sup>th</sup> July, 2018. Parties will address the matter and appropriate order may be passed on the next date."*

2. *Subsequently, when the matter was taken up on 11<sup>th</sup> July, 2018 when on the ground of indisposition of the counsel for the appellant the prayer for adjournment was made and it was adjourned to 18<sup>th</sup> July, 2018. On the next date, we noticed that the counsel for the appellant was not ready to argue the case on merit so we pass the following order on 18<sup>th</sup> July, 2018 :*

*"Though the matter has been disposed of by the Hon'ble Supreme Court and matter to be heard on merit, but since 30<sup>th</sup> May 2018, the appellant has not argued on merit. By way of last opportunity, the counsel for the appellant is allowed to address the Court on merit failing which, these appeals may be dismissed for non-prosecution.*

*Post these appeals for admission on 6<sup>th</sup> August 2018.*

*Pendency of these appeals will not come in the way of Adjudicating Authority to proceed in accordance with law in absence of any order of stay.*

*There is nothing on record to suggest that Bank Guarantee has also been filed.”*

3. *Thereafter, the case was listed on 6<sup>th</sup> August, 2018 when by way of last chance the counsel for the appellant was given opportunity to address this Appellate Tribunal on merit, which reads as follows:*

*“By way of last chance counsel for the Appellant is given an opportunity to address this Appellate Tribunal on merit and the question raised on 18.07.2018. They will also place any evidence on record to suggest that Appellant has furnished irrevocable bank guarantee of Rs.1 crore of a -2- nationalized bank in favour of NCLAT in terms of order of Hon’ble Supreme Court, failing which this appeal may be dismissed for non-compliance of the Hon’ble Supreme Court’s order.*

*Post the case ‘for orders’ on 17th August, 2018.”*

4. In spite of repeated calls, no body appears on behalf of the appellant. Mr. Rahul Shukla, learned counsel for the respondent is present. Mr. J.S. Rawat, Advocate submits that he wants to file an intervention application but that question does not arise as the appellant is not present to press the appeals. We accordingly dismiss both the appeals for non-prosecution.

**20.08.2018 AT 4.30 P.M.** After the order was dictated but before its signature, Mr. Mahesh Kumar Panwar, appellant appeared in person and submitted that his counsel could not appear as he is suffering from chickenpox. However, we are not inclined to accept such submission as no affidavit has been filed about the deposit of Rupees One Crore and time was always sought for on behalf of the appellant on one or the other ground.

It is orally informed that the appellant has deposited Rupees One Crore. If that be so, the appellant is directed to file affidavit enclosing the evidence of payment by the next date. In that view of the fact that Rupees One Crore deposited by the appellant, we recall our earlier part of the order and restore the appeal to its original file.

*Let the appeal be listed 'for orders' on 23<sup>rd</sup> August, 2018 for fixing the date of admission."*

3. In spite of number of opportunities given to the Appellant, as nobody pursued the appeals on merit, we dismiss both the appeals for non-prosecution.

[Justice S. J. Mukhopadhaya]  
Chairperson

[Justice Bansi Lal Bhat]  
Member (Judicial)

*am/uk*