

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 473 of 2018

IN THE MATTER OF:

Seth Thakurdas Khinvraj Rathi

...Appellant

Vs

Cal Refineries Ltd. & Anr.

....Respondents

Present:

For Appellant: Mr. Anurag Ojha, Advocate. Mr. Seth Thakurdas Khinvraj Rathi, Appellant in person.

For Respondents: Ms. Lakshmi Gurung, Standing counsel for Income Tax Department (R-2).

O R D E R

23.08.2018: According to the Appellant, the Central Government/ Income Tax Department cannot be treated to be Operational Creditor on the basis of claim of Income Tax, which according to Appellant do not fall within the meaning of 'Operational Debt' as defined under Section 5(21) of the Insolvency and Bankruptcy Code, 2016. He also submitted that tax has no connection with sale of goods or services.

Learned counsel for the Appellant prayed for and is allowed to implead Central Government through Secretary, Department of Revenue, Ministry of Finance, 128-A, North Block, New Delhi – 110001 as 3rd Respondent. He is also allowed to provide present and correct address of the 2nd Respondent - Assistant Commissioner of Income Tax by tomorrow.

Let notice be issued on respondents. Ms. Lakshmi Gurung, Advocate, accepts notice on behalf of 2nd and 3rd Respondent. No further notice needs to be issued on them.

Let notice be issued on 1st Respondent by Speed Post. Requisites alongwith process fee be filed by tomorrow. If the appellant provides email address of the Respondent, let notice be also issued through email.

Dasti service is permitted. Post the matter on **6th September, 2018.**

Until further order, the Adjudicating Authority will not pass any order of liquidation without prior permission of this Appellate Tribunal.

Further, if any decision is taken by the Committee of Creditors, the same will be subject to decision of this appeal.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice Bansilal Bhat]
Member (Judicial)

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