

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 209 of 2018

IN THE MATTER OF:

Somesh Bagchi & Ors.

...Appellants

Vs

Nicco Corporation Ltd., through Liquidator

....Respondent

Present:

For Appellants: Mr. Swarnendu Chatterjee and Mr. Pinaki Addy, Advocates.

For Respondent: Mr. Vinod Kumar Kothari, Liquidator and Ms. Nitu Poddar, PCS for R-1.

Mr. Lakshay Sawhney, Advocate for proposed Impleader.

ORDER

02.07.2018: Pursuant to question framed and notice issued on 14th May, 2018, Mr. Vinod Kumar Kothari, Liquidator has appeared in person and orally taken plea that 'Gratuity Trust fund' of the employees has not been treated as asset of the Corporate Debtor nor it has been disbursed to any other creditor. He is allowed to file an additional reply making such specific statement regarding the 'Gratuity Trust Fund' and he will also give details of Trustee, having 'Gratuity Trust Fund' and the amount deposited by Corporate Debtor in this fund. He will also state whether Rs.16 crore out of Rs.27 crore already paid in favour of Secured Creditors whether is out of 'Gratuity Trust Fund' or not.

It will be also open to the Appellant to file an additional affidavit giving details of 'Trustee' to find out who are the parties of the 'Gratuity Trust Fund'.

An affidavit has been filed by Mr. Vinod Kothari, Liquidator whereby he has prayed to withdraw the I.A. No. 811 of 2018 and I.A. No.735 of 2018 in Appeal Petition No.209 of 2018 and also sought for an unconditional and unqualified apology in view of the statement made in his affidavit. In the circumstances, we allow the application and dispose of I. A. No.811 of 2018 and I.A. No.375 of 2018.

An I.A. has been filed for impleadment by 'Technology Development Board' (TDB), which will be considered on the next date.

Post the appeal on **18th July, 2018**.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice Bansilal Bhat]
Member (Judicial)

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