

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
Comp. App. (AT) (Ins.) No. 784 of 2022**

In the matter of:

Sonika Tyagi **....Appellant**

Vs.

Sunil Kumar Agarwal, Liquidator of Tybros (India) Tours Pvt. Ltd. **...Respondent**

For Appellant: Mr. Rishabh Jain, Advocate.

For Respondent: Mr. Rakesh Kumar, Ms. Preeti Kashyap, Mr. Lav Dhawan, Advocates for Liquidator

ORDER

(Through Virtual Mode)

22.07.2022: Heard Learned Counsel for the Appellant.

2. This Appeal has been filed against the order passed by the Adjudicating Authority (National Company Law Tribunal), New Delhi, Court-VI, dated 09.05.2022 in I.A No. 5771 of 2021. The Resolution Professional has filed the I.A under Section 66 of the IBC r/w Rule 11 of the NCLT Rules, 2016 where Appellant was impleaded as Respondent No.3, she being wife of Vikas Tyagi a Director of the Corporate Debtor. In the Application following prayers have been made:-

“a) To direct the respondents jointly or severally to refund the aggregating to Rs. 2573.58 Lacs to the account of the corporate Debtor in terms of Section 66 of the IBC Code 2016 read with rule 11 of NCLT Rules, 2016.

- b) *To prosecute & penalize all Respondents as per the provisions of the IBC Code, 2016.*
- c) *To take on record the Transaction Audit Report dated 02.08.2021 reporting fraudulent transactions.*
- d) *To pass any further order as this Hon'ble Tribunal may deem fit and proper under the facts and circumstances of the present application."*

3. An I.A No. 5771 of 2021 was filed by the Appellant before the Adjudicating Authority making following prayers:-

- "i. Delete/ strike off the name of applicant from the array of parties of I.A. No.- 4642 of 2021 who is impleaded as Respondent No-3 in the said I.A; and*
- ii. strike off the allegations of Rs. 37.76 lakhs related to fixed asset i.e., House No- 81, Block D, Sector- Omicorn-1A, situated at Greater Noida, District Gautam Budh Nagar, U.P. from para 10 and 11(2) of I.A. No- 4642 of 2021; and*
- iii. strike off the prayer (a) of I.A. No- 4642 of 2021 by Rs. 37.76 lakhs related to fixed asset; or*
- iv. pass any other order(s) as this Hon'ble Adjudicating Authority may deem fit and proper in the facts and circumstances of the case."*

4. The Adjudicating Authority rejected the Application by the impugned order which is under challenge.

5. Learned Counsel for the Appellant submits that in his Application he has already made averment that at best the Appellant can be impleaded for observation relating to fixed assets of worth Rs. 37.36 Lakhs which averment has been made in paragraph 11 of the Application.

6. The prayer made by the Resolution Professional was seeking direction to jointly or severally refund the aggregating of Rs. 2573.58 Lacs. It is for the Adjudicating Authority to consider all issues including the liability of all the Respondents including the Appellant jointly or severally. It is always open for the Appellant to make its submission as taken in the Application before the Adjudicating Authority for considering its claim. We are satisfied that the Adjudicating Authority did not commit any error in refusing the prayer of the Appellant for deletion of the Appellant's name from the Application filed by the Resolution Professional but rejection of the Application for deletion of the name shall not preclude the Appellant to make such plea as permissible in law before the Adjudicating Authority at the time when Application filed by the Resolution Professional comes for consideration.

7. With these observations, the Appeal is dismissed.

[Justice Ashok Bhushan]
Chairperson

[Justice M. Satyanarayana Murthy]
Member (Judicial)

[Barun Mitra]
Member (Technical)

Anjali/nn