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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 9th April, 2021

+ **W.P.(C) 4338/2021 & CM APPL. 13253/2021**

GP CAPT. ATUL JAIN Petitioner

Through: Petitioner in person.

versus

NATIONAL COMPANY LAW APPELLATE TRIBUNAL AND
ORS. Respondents

Through: Mr. Aman Singh Bakshi, Advocate
for R-2,3,4 and 9.

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J.(Oral)

1. This hearing has been done through video conferencing.
2. The present petition has been filed by the Petitioner challenging the orders dated 12th October, 2020, 17th December, 2020 and 5th January, 2021, passed by the National Company Law Appellate Tribunal (*hereinafter, 'NCLAT'*) in *Company Appeal (AT) (Insolvency) No. 655 of 2020* titled *GP Capt. Atul Jain v. Tripathi Hospital Pvt. Ltd. and ors.* The reliefs sought in the writ petition are as under:

"1. Issue order, direction or writ to the Ld. National Company Law Appellate Tribunal Delhi, to 'Hear and Decide' the petitioner's representation / appeal on 'Legal interpretation' and 'Legal procedures' issues, as per relevant laws and rules.

2. Set aside, quashing the impugned orders dated 12-10-20 and 17-12-20 passed by Ld. NCLAT as without

jurisdiction and against established procedural law and rules.

3. Issue any other order, or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case”

3. The case of the Petitioner is that the Insolvency and Bankruptcy Code, 2016, does not permit NCLAT to direct the filing of written submissions and judgments in a matter, however the NCLAT has vide the impugned orders, directed for the same.

4. The Petitioner, who appears in person, submits that he repeatedly raised objections before the NCLAT, against the directions for filing written submissions and judgments, however the same were not considered. Apart from that, the Petitioner submits that he has also made representations to the Chairperson and the other members of the Board, however to no effect. The Petitioner further submits that he has filed his written submissions, but it is clear from the orders that have been passed by the NCLAT that copies of the same are being directed to be provided to the Respondents. Aggrieved by all these three impugned orders, he has approached this court in this writ petition.

5. The orders of the NCLAT which are under challenge read as under:-

1) 12.10.2020:

“ It is stated that Notice by e-mail, has been sent to Respondent Nos. 4 to 7. Appellant states that they are served by other modes also. The Appellant says that he does not want to file Rejoinder.

Parties may file brief Written-Submissions not more than three pages before next date.

Copies of Judgments on which, Parties want to refer and rely on at the time of arguments, may also be filed before next date.

*The Appeal is to be heard on next date.
List the Appeal 'For Admission (After Notice)
Hearing' on **5th November, 2020**"*

2) 17.12.2020:

"It is represented on behalf of the Respondent/Hospital by the Learned Counsel Ms. Shivani Kher, that the Appellant/Party in Person had supplied only the 'Paper Book' Diary No. 20685 dated 20.07.2020 and the other 'Paper Books' relied on the side of the Appellant have not been supplied to the Respondent. Hence, the Appellant/Party in Person is directed to supply the rest of the 'Appeal Paper Books' in Complete shape to the Learned Counsel for the Respondent not only through e-mail but also in the form of hard copy directly and these shall be supplied on or before 04.01.2021.

In the meanwhile, the Learned Counsel for the Respondent is directed to supply the copy of the 'Written Submissions' to the Appellant in person well in advance before the next hearing date.

The Registry is directed to List the matter on 05.01.2021."

3) 05.01.2021

"The Learned Counsel for Respondent submits that in spite of Order dated 17th December, 2020 the Appellant has not provided copies of the brief Written-Submissions as was directed on 17th December, 2020. The Appellant party in person accepts that he has filed brief Written-Submissions Diary No. 23101 in three volumes and a paper Book of index marked as Copy-I.

Learned Counsel for Respondent submits that she has been given only copy of Appeal Paper Book Diary No. 20685. Learned Counsel for Respondent states that she has already served the copy of Written-Submissions she filed vide Diary No. 23181. Perused order dated 17th December, 2020. The Appellant states

that he will not be able to provide copy of the brief Written-Submissions titled as Copy-I and the Volumes I to III filed vide Diary No. 23101. He states that he has made representation to the Hon'ble Acting Chairperson and the Hon'ble Members of this Appellate Tribunal as to under what provision he is being asked to provide the copies.

The Appellant may if aggrieved with the order dated 17th December, 2020 move higher forum against the order for which time is granted.

List the Appeal 'For Admission (After Notice)' Hearing on 19th February, 2021."

6. A perusal of the above three orders clearly shows that, all that the NCLAT has directed is that the parties ought to file written submissions and copies of the judgements and serve it upon the other party.

7. In proceedings before any Court or Forum, when there are complex issues involved, in order to facilitate the adjudication and to crystallise the issues, it is usual for the Courts and Tribunals to direct the filing of written submissions. These written submissions bring issues, which are raised by the parties, into focus and when filed along with the copies of relevant judgements which are cited by the parties in course of the proceedings, the oral hearings are considerably reduced and streamlined. This also facilitates early decision making by the Courts/ Forums and Tribunals. Thus, this Court does not see any infirmity in the NCLAT directing the filing of written submissions and judgements by the parties.

8. Further, once written submissions and judgments are filed, copies ought to be served upon the opposing side and the apprehension expressed that serving of written submissions and copies of judgments would 'reveal the strategy' is completely misplaced.

9. The NCLAT being the duly constituted Appellate Tribunal, under the IBC, is free to regulate its procedure and the manner in which it wishes to hear matters, including issuing of directions for filing of written submissions and judgments. These procedural issues are to be regulated by the NCLAT on its own. This Court does not deem it appropriate to interfere with the same.

10. The manner in which the Petitioner seems to be making repeated representations and submissions before the NCLAT clearly shows that the Petitioner is not being bonafide in his conduct. Even on an earlier occasion, the same Petitioner had filed a petition, using slang language, which was dismissed by this Court, vide order dated 26th February 2021 in ***CM(M) 165/2021*** titled ***GP Capt Atul Jain v. National Company Law Appellate Tribunal***.

11. Under these circumstances, the Petition is dismissed with costs of Rs. 10,000/- to the “*High Court of Delhi (Middle Income Group) Legal Aid Society*”, on its Account No. 155301101135488. The said costs be deposited within two weeks.

PRATHIBA M. SINGH
JUDGE

APRIL 9, 2021
MR/Ak