



WP.No. 24358 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.09.2023

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA , CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

WP No. 24358 of 2023
and WMP No.23797 of 2023

Hackbridge Hewittic and Easun Ltd.,
6/1A1 & 6/1B1, Sy.No.6, Behind Escorts Ltd.,
Ernavur Village, Tiruvottiyur,
Chennai, Tamil Nadu 600 019.

... Petitioner

-vs-

1. The Registrar,
National Company Law Tribunal,
Special Bench (Court-I),
Corporate Bhawan II Floor,
Beach Rd., Mannadi, George Town,
Chennai, Tamil Nadu 600 001.

2. State Bank of India,
Stressed Asset Management Branch-II,
TSRTC Building, First Floor, Kachiguda,
Hyderabad, Telangana, Through its
Assistant General Manager/
Authorised Signatory.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records of the 1st respondent order passed on 24.07.2023 in IA (IBC)/1097 (CHE)



WP.No. 24358 of 2023

2023 filed by the petitioner company for condonation of delay of 14 days under Rule 11 of the NCLT Rules, 2016 filed on 31.05.2023 vide S.R.No.1277 dated 07.06.2023 and quash the same and consequently direct the National Company Law Tribunal (NCLT) Special Bench (Court-I), Chennai, the respondent No.1, to take on record the reply statement dated 31.05.2023 filed afresh by the petitioner company vide S.R.No.1277 dated 07.06.2023 as per the privilege given by the Hon'ble National Company Law Appellate Tribunal (NCLAT), Chennai Bench in Company Appeal (AT)(CH)(Ins) No.5/2021 and I.A.No.614/2021, while remanding the case IBA/1178/2019 back to the NCLT, Chennai, directed the Adjudicating Authority ".... to decide on the merits of the main petition, in a fair, just, in a dispassionate manner, by passing a speaking reasoned order (in qualitative and qunatitative terms) ...".

For the Petitioner : Mr.Premkumar Pothina
for Mr.H.Mohammed Farook

For the Respondents : Mr.Pranava Charan M.G.
For R-2

* * * * *

ORDER

(Made by the Hon'ble Chief Justice)

We have heard Mr.Premkumar Pothina, learned counsel for the petitioner and Mr.Pranava Charan, learned counsel for respondent No.2

2. The petitioner is challenging the order passed by the National Company Law Tribunal (NCLT) rejecting the application and the



WP.No. 24358 of 2023

counter. The counter filed by the petitioner is rejected on the ground that earlier counter is already filed by the petitioner and no leave has been obtained to file another counter.

3. Much has been argued about the order passed by the National Company Law Appellate Tribunal (NCLAT) in an appeal filed by the present second respondent wherein the matter was remanded back for de novo trial.

4. According to the petitioner, as NCLAT has remanded the matter back for de novo trial, the petitioner gets right to file a fresh counter and need not rely upon one-line counter filed in the year 2019.

5. According to the learned counsel for the second respondent, de novo trial would not mean filing fresh pleadings.

6. Be that as it may, the learned counsel for the second respondent raised a preliminary objection that the petitioner has a right of appeal against the order of the Adjudicating Authority before the NCLAT under Section 61 of the Insolvency and Bankruptcy Code,



WP.No. 24358 of 2023

7. In view of the fact that the petitioner has an efficacious statutory remedy of appeal, we are not inclined to exercise our writ jurisdiction under Article 226 of the Constitution of India. The petitioner may file an appeal as provided and take the plea of time spent in prosecuting the present writ petition. All the contentions of the parties are kept open.

The writ petition is disposed of. There will be no order as to costs. Consequently, connected miscellaneous petition is closed.

(S.V.G., CJ.)

(P.D.A., J.)

13.09.2023

Index : Yes/No
Neutral Citation : Yes/No

sra



WP.No. 24358 of 2023

WEB COPY To

1. The Registrar,
National Company Law Tribunal,
Special Bench (Court-I),
Corporate Bhawan II Floor,
Beach Rd., Mannadi, George Town,
Chennai, Tamil Nadu 600 001.
2. The Assistant General Manager,
State Bank of India,
Stressed Asset Management Branch-II,
TSRTC Building, First Floor, Kachiguda,
Hyderabad, Telangana.



WEB COPY



WP.No. 24358 of 2023

THE HON'BLE CHIEF JUSTICE
AND
P.D.AUDIKEVALU, J.

(sra)

WP. No. 24358 of 2023

13.09.2023