

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Company Appeal (AT) (Insolvency) No. 170 of 2023

IN THE MATTER OF:

Rajasthan State Mines & Minerals Ltd.

...Appellant

Versus

Parag Sheth & Ors.

...Respondents

Present:

For Appellant:

For Respondent: Mr. Suresh Dutt Dobhal and Disha Ganjoo,
Advocates for RP

ORDER

17.02.2023: Heard Learned Counsel for the Appellant as well as Learned Counsel for the Resolution Professional.

2. This Appeal has been filed against the Order dated 19.12.2022 passed by the Adjudicating Authority (National Company Law Tribunal, Ahmedabad, Division Bench, Court-1) by which order was passed on the Application filed by the Resolution Professional being I.A./1115(AHM)2022. The Adjudicating Authority by Order dated 19.12.2022 disposed of the Application I.A./1115(AHM)2022 with following directions:

“I.A./1115(AHM)2022

This application is filed by RP directing the Suspended Management and related party to cooperate the RP by handing over all documents and possession of the assets lying in the premises. Advance copy was already served to the Respondent but no one appeared.

At this stage without going into details of allegations against R1 to R3, we direct the Respondents to cooperate the RP by handing over all documents and assets within a week, failing which RP may approach local police and local police to give assistance.

In view of the above, I.A./1115(AHM)2022 stands allowed and disposed of.”

3. Learned Counsel for the Appellant submits that I.A./1115(AHM)2022 was filed by the RP where the Appellant has been impleaded as Respondent No. 3 and in the Application, following prayers were made:

- “a) Allow the present Application;*
- b) Pass appropriate orders directing the respondents to assist and cooperate with the applicant in order to enable the Applicant to perform his duties as per and in accordance with the provisions of the Code and to assist the Applicant in identifying the assets of the Corporate Debtor lying at the premises of respondent No. 3 and to handover the possession of the said assets lying at the premises of respondent no. 3 to the Applicant herein; and/or*
- c) Pending hearing and final disposal of the present Application, the respondents may be directed to not to deal with the assets of the Corporate Debtor which are lying in the premises of Respondent No. 3;*
- d) Such other and further relief(s) as may deem fit in the interest of justice.”*

4. Learned Counsel for the Appellant submits that without issuing notice to the Appellant who was Respondent No. 3 in the Application, the Application has
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been allowed. Learned Counsel appearing for the RP submits that direction issued by the Adjudicating Authority are nothing but directions which has to be issued to enable the RP to perform his duties under the Code.

5. We have considered the submissions of Learned Counsel for the Parties and have perused the record.

6. The direction issued by the Adjudicating Authority are final direction allowing an application filed by the RP without issuing notice to the Appellant. Learned Counsel for the Appellant submits that the directions could not have been issued without hearing the Appellant especially when the direction has been issued to handover the assets within a week.

7. We are of the view that Adjudicating Authority ought to have issued notice to the Appellant before passing any order on the Application. We thus at this ground alone set aside the Order dated 19.12.2022 and revive the application I.A./1115(AHM)2022 before the Adjudicating Authority to be heard afresh and decide in accordance with law. Appellant may file Reply-Affidavit to the Application within three weeks from today. We make it clear that we have not entered into the merits of the application I.A./1115(AHM)2022.

[Justice Ashok Bhushan]
Chairperson

[Dr. Alok Srivastava]
Member (Technical)

Basant/nn