(2019) 08 NCLT CK 0026

In the National Company Law Appellate Tribunal

Case No : (IB) No. 409(PB) Of 2017

Edelweiss Asset Reconstruction Co. Ltd. APPELLANT

Vs

Net 4 India Limited RESPONDENT

Date of Decision : 29-08-2019

Acts Referred:

Securitisation And Reconstruction Of Financial Assets And Enforcement Of Security Interest Act, 2002 — Section 14

Citation : (2019) 08 NCLT CK 0026

Hon'ble Judges : M.M. Kumar, CJ;Santanu Kumar Mohapatra, Member (Technical)

Bench : Division Bench

Advocate : Gaurav Malik, Pooja, Vikram Sobti, M. Mohana Nijhawan, Gaurav Arora

Final Decision : Disposed Of

Judgement

CA-1346/PB/2019

This is an application preferred by RP with a prayer for defreezing bank account mentioned in Para 2.4 by the Income Tax Department. The details of the bank accounts with ICICI Bank are as under:

S. N.

Date of Notice

Bank Account No.

Amount lying in account (INR)

1

26-Mar-15

32205001211

2,94,813.87

2

26-Mar-15

3105028294

15,29,841.20

3

26-Mar-15

3105021779

4,68,386.29

On the last date of hearing learned counsel for the Income Tax Department has stated that the Bank Account were frozen on 26.03.2019 have already been defreezed. However an affidavit by Income Tax Department was required to be filed. No affidavit has been filed nor any one is present on its behalf. Learned counsel after obtaining instructions from the applicant Resolution Professional has stated that only two of the bank accounts have been defrozen whereas applicant bank account namely ICICI Bank Account No. 032205001211 amount Rs. 2,94,813.87 has not been defreezed.

Likewise the service tax department has also frozen one of the Bank Account and its details are as under:

s

Date of notice

Bank Account

Amounts

Annexure

No.

No.

lying in account (INR)

1

14-Oct-14

705001641

2,66,155.06

4

Affidavit of service in respect of Service Tax Department has been filed 24.08.2019 and the service is complete. Despite service no one has put in appearance on behalf of the Service Tax Department.

It is well settled by the judgment of the Supreme Court rendered in the case of Principal Commissioner of Income Tax v. Monnet Ispat and Energy Ltd. (Special Leave to Appeal © No. 6433/2018 decided on 10.08.2018) that during the period of moratorium imposed under Section 14 the attachment of the Bank Account belonging to the Corporate Debtor is prohibited nor the same could continue. It is obvious that the freezing of Bank Account has continued, despite the clear law laid down by the Hon'ble Supreme Court. Despite service no one has put in appearance on behalf of the Service Tax Department nor any affidavit in terms of order 01.08.2019 been filed.

As a request to the above discussion we allow the application and direct the Income Tax Department and Service Tax Department to defreeze all the banks account belonging to the Corporate Debtor. A report in that regard be filed within one week before the registry of this Court.

CA-1326/PB/2019 stand disposed of.

CA-1140/PB/2019

Rejoinder has been filed listing various items in respect of which information is required or the documents are required to be furnished has been detailed. A copy thereof has been furnished to the counsel for the non-applicant - ex-management.

List for arguments on 02.09.2019.