

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

**Comp. App. (AT) (Ins.) No. 934 & 935 of 2022**

**IN THE MATTER OF:**

**Ashok Tiwari**

**....Appellant**

**Vs.**

**DBS Bank India Ltd. (DBIL) & Anr.**

**....Respondents**

**Present:**

**For Appellant: Mr. Gaurav Mitra, Mr. Prabhat Ranjan Raj, Mr. Sashwat Anand, Mr. Kumar Ayush, Mr. Gunjesh Ranjan, Mr. Anil Kumar, Mr. Sidharth Sarthi, Advocates**

**For Respondents: Mr. Krishnendu Dutta, Sr. Advocate with Mr. Dhruv Malik, Ms. Palak Nenwani, Ms. Varsha and Ms. Mehak, Advocates**

**ORDER**

**10.08.2022:** Heard Learned Counsel for the Appellant as well as Learned Counsel appearing for the Respondent/ DBS Bank India Ltd.

This appeal has been filed against the order of the Hon'ble NCLT Principal Bench, Delhi dated 01.08.2022 passed in I.A. No. 3630 of 2022 as well as the order dated 27.07.2022 passed in I.A. No. 3470/2022. In this appeal few facts are necessary to be noticed. By the order dated 25.03.2022 application under section 7 was admitted against which an appeal was filed by the appellant in this 'Tribunal', in which appeal order was passed on 04.07.2022, giving liberty to the Appellant to file an application under Rule 49(2) of the NCLT, Rules, 2016 for recall of the ex-parte order.

This 'Tribunal' also granted interim order for a period of two weeks. Subsequently, an another I.A. No. 2239 of 2022 was filed in Comp. App. (AT) (Ins.) No. 418 of 2022 which application was dismissed as withdrawn with liberty to the Appellant to file an application, as per order dated 04.07.2022 interim protection was extended for a period of one week. The application under Rule 49(2) was filed by the Appellant on 19.07.2022 on which notice was issued 22.07.2022 and the matter was there after taken on 27.07.2022 fixing the application 3470/2022 for 12.09.2022. Appellant filed an application for interim relief being I.A. No. 3630/ 2022 which is also been permitted to be listed on 12.09.2022, the application was filed on 28.07.2022.

Learned Counsel for the Appellant submits that the application for recall of the order admitting CIRP is still pending and has been fixed for 12.09.2022, Adjudicating Authority ought to have passed an order on the interim application 3630/2022 grating some protection which have been simply listed on the 12.09.2022 when main application was to come.

Both the applications i.e. 3470/2022 and 3630/2022 are still pending before the Adjudicating Authority, we see no reason to entertain this appeal.

We have been informed by the Counsel for the Respondent that CoC has already been constituted. Both the applications being pending before the Adjudicating Authority, we are of the view that Adjudicating Authority shall endeavour to dispose of the application on the next date i.e. 12.09.2022 or as early as possible.

However, looking to the facts of the present case we are of the view that that till both the applications are pending consideration CoC shall not take any further steps in the CIRP. IRP shall ensure that Corporate Debtor is run as a going concern.

Appeal disposed of.

**[Justice Ashok Bhushan]**  
**Chairperson**

**[Barun Mitra]**  
**Member (Technical)**

*sa/nn*