

NATIONAL COMPANY LAW APPELLATE 'TRIBUNAL', CHENNAI BENCH

I.A. No. 544 of 2021

In

Company Appeal(AT) (CH)(Insolvency) No. 234 of 2021

IN THE MATTER OF:

**Sumit Binani RP
(KSK Mahanadi Power Company Ltd.)**

...Applicant/Appellant

Vs

**V Venkatachalam RP
(M/s KSK Water Infrastructures P Ltd.) & 2
Ors.**

....Respondents

Present:

For Appellant : Mr. P.H. Arvindh Pandian, Sr. Adv,
Mr. Sandeep Bajaj, Advocate
Mr. Anirudh Krishnan, Advocate
Mr. Adarsh Subramanian, Advocate
Mr. Advaidh Nelakanttan, Advocate

For Respondent No.1
/Resolution Professional: Mr. Y. Suryanarayanan, Advocate
Ms. Aditi Deshpande, Advocate
Mr. Tushar Nagar, Advocate
Mr. Badri Narayanan, Advocate

For Respondent No.2 : Mr.Advaidh, Advocate

For Respondent No.3 : Mr. Bishwajit Dubey, Advocate
Ms. Srideepa Bhattacharyya, Advocate
Ms. Neha Shivhare, Advocate

ORDER
(Through Virtual Mode)

15.11.2021 Heard both sides. I.A. No. 544 of 2021 in Company Appeal(AT)(CH)(Insolvency) No. 234 of 2021 is filed by the Applicant seeking clarification/modification of the Order dated 01.10.2021 passed by this 'Tribunal' in the instant Appeal and seeking necessary direction that payments for all future Bill/Invoice pursuant to the Order passed by this Appellate

'Tribunal' shall be required to paid by the Appellant @ 50% of Invoice Value as raised by the Respondent No. 1 pending disposal of the Appeal.

In this connection it is useful to this 'Tribunal', to refer to the portion of the order dated 01.10.2021 passed in I.A. No. 544 of 2021 in Company Appeal(AT)(CH)(Insolvency) No. 234 of 2021 whereby and whereunder it is observed as follows:

“Taking into consideration to the submissions made on either side, at this stage, this ‘Tribunal’ simpliciter, without delving deep into the merits of the main ‘Appeal’ and also not expressing any opinion about the merits of the matter, quite in the fitness of the things, this Tribunal directs the Appellant to pay 50% of the outstanding due to the Resolution Professional of the Respondent No. 1 within one month from today and further the Appellant is also directed to pay Bill(s)/Invoices to be raised or raised by the Respondent No. 1 periodically without fail.”

On going through earlier order dated 01.10.2021 passed by this 'Tribunal' in the aforesaid Appeal as stated supra, this 'Tribunal' is of the considered view that the earlier order passed by this 'Tribunal' in directing the Appellant to pay “50% of the outstanding due to the Resolution Professional of Respondent No. 1 within one month from today” and further the Appellant is to pay “Bill(s)/Invoices to be raised or raised by the Respondent No. 1 periodically without fail” requires no interference because of the simple fact that the same is self-explanatory and without any ambiguity of no explanation. However, to clear the mist, shroud/cloud if any, this Tribunal points out that the order dated

01.10.2021 was passed by this 'Tribunal' whereby 50% of the total outstanding amount to be paid by the Appellant within one month from today and further directed to pay Bill(s)/Invoices to be raised or raised by the Respondent No. 1 periodically without fail only refers to 50% and not otherwise of 100%.

With the aforesaid observance/clarification I.A. 544 of 2021 stands disposed of. In respect of any other relief sought for by the Applicant in I.A. No. 544 of 2021 they are not acceded to by this 'Tribunal'.

The 'Office of the Registry' is directed to List the matter on **8th December, 2021**.

[Justice M. Venugopal]
Member(Judicial)

(Kanthi Narahari)
Member(Technical)

Akc/Md