NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 242 of 2023
&
I.A. No. 865 of 2023

IN THE MATTER OF:

Kuldeep Singh & Anr **...Appellants**

Versus

Manjul Mittal Liquidator,
Sainsons Pulp and Papers Ltd. **...Respondents**

Present:

For Appellant	**:**	**Mr. Abhishek Garg, Mr. Yash Gaiha & Mr. Ranesh Mankotia, Advocates.**
For Respondents	**:**	**Appearance not marked.**

O R D E R

17.05.2023 Heard Learned Counsel for the Appellant as well as Learned Counsel for the Liquidator.

This appeal has been filed against the order dated 24.01.2023 passed by the Adjudicating Authority (National Company Law Tribunal, Chandigarh Bench, Chandigarh) by which an Interlocutory Application bearing I.A. No. 1811/ 2022 filed by the Appellant the auction bidder seeking an interim stay on termination and forfeiture of amount by notice dated 29.11.2022.

The Appellant before us was the highest auction purchaser in private sale conducted by the Liquidator, in the liquidation proceedings of the Corporate Debtor. The property was auctioned as is what is basis. Last fail to auction was for the amount of Rs. 8,18,50,000/-.

Last auction failed, no one came forward for bid. The Appellant thereafter made an offer for private sale of Rs. 8,19,00,000/-. The Liquidator accepted the said offer and communicated to the Appellant with the letter of intent dated 20.08.2022.

The said letter of intent, provided terms of payment. The Appellant made the payment of 15% EMD as well but failed to make the entire balance payment within the time provided by the Liquidator. Within 90 days the Appellant could only pay Rs. 4,51,00,000/-. The application filed by the Appellant praying for a relief before the Adjudicating Authority was rejected against which this Appeal has been filed.

When the appeal was filed before this court, vide order dated 28.02.2023 the following order was passed:-

> *"Learned Counsel for the Appellant submits that Appellant was Successful Purchaser in Private Sale by the Liquidator and in response to the Letter of Intent issued on 28th August, 2022, has deposited total amount of Rs. 4.51 Crores and offered the balance amount on 30th December, 2022 by Demand Draft Rs. 3.93 Crores including interest which however was not accepted by the Liquidator and liquidator has now forfeited the amount deposited and directed for fresh auction and the fresh auction is going to take place on 08th March, 2023.*
>
> *2. Learned Counsel for the Appellant submits that Appellant is ready to deposit the entire balance amount with interest in the Court.*
>
> *3. Let the Appellant deposit the entire balance amount with interest through Bank Draft drawn in the name of 'Pay and Accounts Officer, Ministry of Corporate Affairs' before 06th March, 2023."*
>
> *4. List this Appeal on 13th March, 2023. Subject to deposit of the aforesaid amount before 06th March, 2023,*

Liquidator shall not proceed with the auction on 08th March, 2023.

In pursuant to the aforesaid order, the Appellant had deposited the entire balance amount with interest. It is relevant to notice that by order dated 28.02.2023. We directed the payment of entire balance amount with interest, which according to the Appellant had been deposited in the Court.

Learned Counsel for the Appellant submits that the entire amount has been deposited. The auction sale proceedings may be closed and the Liquidator he directed to take all constitutional steps regarding transfer of the property.

Learned Counsel for the Liquidator submits that the Liquidator has issued the letter of intent providing for the timeline of payment which was breached by the Appellant since, the Appellant failed to deposit the amount within 90 days. Learned Counsel for the Liquidator submitted that notice for forfeiture was also issued on 29.11.2022.

The present is a case where sale in favour of the Appellant was culminated by means of private sale. The public auction had failed to elucidate any bid. It is true that the Appellant failed to deposit the payment as per the timeline given by the Liquidator in his letter of intent, however under order of this Tribunal the Appellant has deposited the amount along with the interest of the balance payment.

We are thus of the view that no useful purpose shall be served in unsettling the private sale under in which the entire amount with interest has already been paid.

We thus in the special facts of the case are of the view that the private sale in favour of Appellant be accepted directing the Liquidator to take all constitutional steps in pursuance of the letter of intent. We further direct the amount deposited in the court be given to the Liquidator/ Respondent No. 1. The appeal is disposed of accordingly.

[Justice Ashok Bhushan]
Chairperson

[Naresh Salecha]
Member (Technical)

Sim/ nn