

**Learning Curve-1009**

November 20, 2023

**In absence of Rental Agreement between parties, RP can't demand payment of usage charges for the asset of CD.**

CASE TITLE	Patsons Construction Vs. Shri Ram Ratan Kanoongo
CASE CITATION	Company Appeal (AT) (Ins.) No. 1269 of 2022 & I.A. No. 3900 of 2022
DATE OF ORDER	November 07, 2023
COURT/ TRIBUNAL	NCLAT, New Delhi

**BRIEF FACTS:**

The resolution plan of the CD was approved by the CoC and the AA. The RP filed an application before the AA for issuing directions on the payers made by the RP. The AA issued directions with regard to the application and directed the respondent to handover the asset of the CD to the RP and to deposit the usage charges with respect to such asset of Rs. 2 lakhs per month for 24 months. The appellant preferred an appeal against the impugned directions.

**DECISION:**

The Hon'ble NCLAT, New Delhi, held that,

*“In so far as the direction to pay usage charges it is clear that there has been no rental agreement between the parties for any usage charges and machine was given to the operational creditor by the director of the Corporate Debtor in lieu of the certain dues which Corporate Debtor owe to the appellant which is reflected in letter dated 08.06.2021...*

*In the application which was filed by the Resolution Professional there was no basis for claiming Rs. 2 lakhs per month of usage charges. Adjudicating Authority by the impugned order has also not adverted as to how the amount of Rs. 2 lakhs per month can be allowed for payment of usage charges.*

*We, thus, are of the view that second direction issued by Adjudicating Authority for payment of Rs. 48 lakhs is unsustainable and is set aside. The appeal is partly allowed to the above extent”*