Learning Curve-848

October 4, 2022

NCLAT imposed a cost of Rs. 2 Lakhs on the bidder who initiated misconceived litigation.

CASE TITLE	M/s. SGA Fashion Pvt. Ltd. v CMA Sandeep Kumar Bhatt[1]
CASE CITATION	Company Appeal (AT) (Insolvency) No. 117 of 2022
SECTIONS/ REGULATION	Rule 149 of NCLT Rules 2016;
DATE OF ORDER	26.08.2022
COURT/ TRIBUNAL	NCLAT, New Delhi

Brief of the case:

The CD was under liquidation. The tender document laid down the eligibility criteria of bidders and it was stated that bidder should have a turnover of Rs. 20 Crores and net worth of Rs.3 Crores for each set of Land and Building. The eligibility criteria were set by the SCC. Appellant submitted its bid documents to the Liquidator for both the properties under auction. The Liquidator rejected the Appellant's bid contending that the Appellant did not meet the eligibility criteria. Appellant had filed an application before the AA seeking direction to the Liquidator to allow the Appellant to participate in the auction. AA rejected the application and imposed a cost of Rs. 9 Lakhs on the Appellant over grounds of misconceived litigation.

Decision:

Hon'ble NCLAT partly allowed the appeal only modifying the amount of cost imposed from Rs.9Lakhs/- to Rs.2Lakhs/- and held that,

"Having sought for participating in the bidding process, the contention that pre-bid qualification will not bind the bidders is erroneous as such a situation would only negatively affect the efforts of the Liquidator to 'maximize the value of the asset' and would moreover delay the proceedings as all and sundry would participate in the bidding process...Having participated in the bidding process, the conduct of the Appellant in turning around and stating that the eligibility criteria is erroneous, without challenging the said condition in any appropriate forum, is truly misconceived."

QR CODE FOR FULL ORDER/JUDGEMENT:

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[1]https://efiling.nclat.gov.in/nclat/order_view.php?path=L05DTEFUX0RvY3VtZW50cy9SVNfRG9jdW1lbnRzL2Nhc2Vkb2Mvb3JkZXJzL0RFTEhJLzIwMjItMDgtMjYvY291cnRzLzMvZGFpbHkvMTY2MTUwNjAzMTIwMjYxOTA0OTc2MzA4OTFlZjNkNzcxLnBkZg==