

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

Civil Appeal No.4044 of 2020

**Rajkumar Brothers And Production Private
Limited**

...Appellant(s)

Versus

**Harish Amilineni Shareholder and erstwhile
Director of Amilionn Technologies
Private Limited & Anr.**

...Respondent(s)

ORDER

1. This appeal under Section 62 of the Insolvency and Bankruptcy Code, 2016 is against an order dated 10th August, 2020 passed by the National Company Law Appellate Tribunal (NCLAT), New Delhi allowing Company Appeal (AT) (Insolvency) No.212 of 2020 filed by the Respondent.
2. The Appellant had filed a petition under Section 9 of the IBC before the National Company Law Tribunal (NCLT) Hyderabad, being CP(IB) No.737/9/HDB/2019. Notice on the said petition was issued by the NCLT on 21st November, 2019.
3. By an Order dated 9th January, 2020, the NCLT admitted the petition observing that the claim of the Appellant was undisputed. Aggrieved by the order dated 9th January, 2020, the Respondent filed above mentioned appeal before the NCLAT. By the order impugned in this appeal, the NCLAT has set aside the order of the NCLT, holding that there were pre-existing disputes between the Respondent and the Appellant. The aforesaid finding is based on various documents.

4. The NCLAT set aside the impugned order of the NCLT and dismissed the application of the appellant under Section 9 of the IBC. The Appellant has challenged the impugned order only to the extent of the direction in paragraph 8(C) thereof, which reads as follows:

“The IRP/RP will place particulars regarding CIRP costs and fees before the Adjudicating Authority and the Adjudicating Authority after examining the correctness of the same will direct the Operational Creditor to pay the same in time to be specified by the Adjudicating Authority.”

5. The direction is in the nature of costs of the proceedings under Section 7 of the IBC, which have been found to be unsustainable in law. The Respondent having succeeded, cannot be saddled with the costs of the Corporate Insolvency Resolution Process (CIRP) initiated at the behest of the Appellant or with the fees of the Interim Resolution Professional (IRP). The direction does not warrant interference in appeal.
6. We find no grounds to interfere with the order dated 10th August, 2020 passed by the National Company Law Appellate Tribunal in Company Appeal (AT) (Insolvency) No.212 of 2020.
7. The Civil Appeal is accordingly dismissed.

.....J.
[Indira Banerjee]

.....J.
[Sanjiv Khanna]

**New Delhi;
January 22, 2021**

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s).4044/2020

RAJKUMAR BROTHERS AND PRODUCTION PRIVATE LIMITED

Appellant(s)

VERSUS

HARISH AMILINENI SHAREHOLDER AND ERSTWHILE DIRECTOR
OF AMILIONN TECHNOLOGIES PRIVATE LIMITED & ANR.

Respondent(s)

(WITH IA No.131619/2020-EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT and IA No.131618/2020-STAY APPLICATION)

Date : 22-01-2021 This appeal was called on for hearing today.

CORAM :

HON'BLE MS. JUSTICE INDIRA BANERJEE

HON'BLE MR. JUSTICE SANJIV KHANNA

For Appellant(S)

Mr. Abhishek Kumar, Adv.

Ms. Garima Prashad, AOR

Ms. Ankita Pandey, Adv.

Mr. Imtiyaz, Adv.

For Respondent(s)

Mr. Raavi Yogesh Venkata, AOR

UPON hearing the counsel the Court made the following
O R D E R

- 1 The appeal is dismissed in terms of the signed order.
- 2 Pending applications stand disposed of.

(SANJAY KUMAR-I)
AR-CUM-PS

(Signed order is placed on the file)

(SAROJ KUMARI GAUR)
COURT MASTER