

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 618 of 2022**

**IN THE MATTER OF:**

**Ashish Chandravandan Patel  
Suspended Board of Director of  
Cengres Tiles Ltd.**

**...Appellant**

**Versus**

**Axis Bank Ltd. & Anr.**

**...Respondents**

**Present:**

**For Appellant: Mr. Mandeep Singh Saluja and Mr. Atul Sharma,  
Advocates.**

**For Respondents: Mr. Anshuman Gupta, Mr. Vignesh Raj and Ms.  
Aditi Mane, Advocates for R-1.**

**O R D E R  
(Virtual Mode)**

**30.05.2022:** Heard learned counsel for the Appellant. This Appeal has been filed against order dated 27.04.2022 by which order the application under Section 7 filed by the Financial Creditor has been admitted. Learned counsel for the Appellant challenging the order contends that the pronouncement of the order is not in accordance with Rule 151 and 152 of the NCLT Rules. It is submitted that it is clear that the order bears signature of only one member – Member Judicial and there is no signature of the other member of the Bench i.e. Member Technical. He submits that as per Rule 152, if any Member who has heard the matter is not available then approval of the President is required, which is not reflected by the record. He further submits that when other Member, who has heard the matter was not available to sign the order, it should have been released from the part-heard and listed for hearing afresh.

*Cont'd.../*

2. We have heard learned counsel for the Appellant and perused the record.

3. Rule 151 and 152 of the NCLT Rules, 2016 are as follows:-

*“151. Pronouncement of order by any one member of the Bench.-(1) Any Member of the Bench may pronounce the order for and on behalf of the Bench.*

*(2) When an order is pronounced under this rule, the Court Master shall make a note in the order sheet, that the order of the Bench consisting of President and Members was pronounced in open court on behalf of the Bench.*

*152. Authorising any member to pronounce order (1) If the Members of the Bench who heard the case are not readily available or have ceased to be Members of the Tribunal, the President may authorise any other Member to pronounce the order on his behalf after being satisfied that the order has been duly prepared and signed by all the Members who heard the case.*

*(2) The order pronounced by the Member so authorised shall be deemed to be duly pronounced.*

*(3) The Member so authorised for pronouncement of the order shall affix his signature in the order sheet of the case stating that he has pronounced the order as provided in this rule.*

*(4) If the order cannot be signed by reason of death, retirement or resignation or for any other reason by any one of the Members of the Bench who heard the*

*case, it shall be deemed to have been released from parheard and listed afresh for hearing.”*

4. Rule 151(1) empowers any Member of the Bench to pronounce the order for and on behalf of the Bench. When we see the certified copy of the impugned order, it is with an order appended to it. It appears that the order has been passed on par Bench although it has been signed by one Member – Member Judicial. Following is the order which is appended with the Judgment:-

**“ORDER**

*The matters were heard almost in the month of March but orders could not be pronounced because Technical Member was not available. Technical Member will not be available for another couple of weeks, hence, matter cannot be kept pending for pronouncement because hearing was concluded almost a month ago. Hence orders are pronounced invoking Rules 151 of NCLT Rules, 2016 with consent of the other Member.”*

5. The aforesaid order indicates that one of the Member of the Bench, who heard the matter was not available for another couple of weeks and matter cannot be kept pending for pronouncement because hearing was concluded almost a month ago. The order clearly mentions that the order was pronounced under Rule 151 of the NCLT Rules, 2016 with consent of the other Member. We see no error in the pronouncement of order by one Member with consent of the other Member of the Bench under Rule 151 of the NCLT Rules.

6. Rule 152(4) on which reliance is placed is with regard to the matter where the order cannot be signed by reason of death, retirement or resignation or for any other reason by any one of the Members of the Bench who heard the case. Present is not the case where order cannot be signed by reason of death, retirement or resignation or for any other reason. Present is the case where the Technical Member was to be available after a couple of weeks to sign the order and with his consent the order was pronounced. There is no occasion for application of Rule 152(4). We further notice that there is clear debt and default which finding is not questioned before us in section 7 Application. We do not find any merit in the Appeal. The Appeal is dismissed.

**[Justice Ashok Bhushan]**  
**Chairperson**

**[Shreesha Merla]**  
**Member (Technical)**

**[Naresh Salecha]**  
**Member (Technical)**

*Archana/nn*