

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH (COURT – II)

Item No. 221
124/140/ND/2019

IN THE MATTER OF:

M/s. Aggarwal & Rampal

...

Applicant/Petitioner

Versus

**M/s. Regional Director,
Northern Region & Anr**

...

Respondent

Under Section: 140(4) of Com act

Order delivered on 04.06.2024

CORAM:

**SH. ASHOK KUMAR BHARDWAJ
HON'BLE MEMBER (J)**

**SH. SUBRATA KUMAR DASH
HON'BLE MEMBER (T)**

PRESENT:

For the Applicant : Adv. Shivam Goel, Adv. Ramya S. Goel,
Adv. Akash Katiyar in IA-1485/2019

For the Respondent : Adv. Shivam Goel, Adv. Ramya S. Goel,
Adv. Akash Katiyar for R-2,
Adv. Kamal Kant Jha for R-1

Hearing Through: VC and Physical (Hybrid) Mode

ORDER

Ld. Counsel appearing for the Respondent Nos. 1 & 2 as also the Advocate representing the Regional Director, MCA jointly submitted that the present petition preferred under Section 140 (4) of the Companies Act, 2013 is not maintainable, as the Company Act does not provide for any remedy to the Auditor, in terms of the aforementioned provisions of the Companies Act, 2013.

However, the Ld. Counsel for the Petitioner could draw our attention to Rule 78 of NCLT Rules, 2016 and submitted that the said rule not only provide for remedy to aggrieved Auditor before Tribunal but also prescribe a form for the purpose. Confronted with such plea, the Ld. Counsel appearing for the Respondent Nos. 1 & 2 sought to put forth his submissions on merits.

However, the Ld. Counsel for the Petitioner submitted that the reply filed on behalf of the Respondent No. 2 has not yet been made available to him.

Let the copy of reply be made available to Ld. Counsel for the Petitioner during the course of the day, who will have an opportunity to file Rejoinder thereto within two weeks.

List on 17.09.2024.

It is made clear that the Counsel for the Respondent No. 1 & 2 would be entitled to make his submission regarding the maintainability of the present petition, with reference to the appropriate Rules/law/judicial precedents.

Sd/-
(SUBRATA KUMAR DASH)
MEMBER (T)

Sd/-
(ASHOK KUMAR BHARDWAJ)
MEMBER (J)