

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 17 to 19 of 2017

IN THE MATTER OF:

M/s. J.R. Agro Industries (P) Ltd. Appellant
Vs
M/s. Swadisht Oils Pvt. Limited Respondent

With Company Appeal (AT) (Insolvency) No. 20 & 21 of 2017

M/s. Abhi Agro (P) Ltd. Appellant
Vs
M/s. Swadisht Oils Pvt. Limited Respondent

Along with Company Appeal (AT) (Insolvency) No. 22 & 23 of 2017

M/s. Jai Lakshmi Solvents (P) Ltd. Appellant
Vs
M/s. Swadisht Oils Pvt. Limited Respondent

Also with Company Appeal (AT) (Insolvency) No. 24 & 25 of 2017

M/s. Rungta Industries Private Ltd. ... Appellant
Vs
M/s. Swadisht Oils Pvt. Limited Respondent

And Company Appeal (AT) (Insolvency) No. 26 & 27 of 2017

M/s. Arohul Foods Private Ltd. Appellant
Vs
M/s. Swadisht Oils Pvt. Limited Respondent

Present:

For Appellants: Mr Arvind Kumar and Ms Henna George, Advocates for CA (AT) (Ins) 17 to 19; Ms Purti Marwaha, Advocate for CA (AT) (Ins) 20 to 27.

For Respondents: None

ORDER

15.05.2017- These appeals under section 61 of Insolvency & Bankruptcy Code, 2016 ("I & B Code" for short) have been preferred by Appellant/ Operational Creditors M/s. J.R Agro Industries Pvt. Ltd., against order(s) dated 3rd March, 2017 etc, whereby the application preferred by Appellants were adjourned for another date.

2. The grievance of the appellants was that the Adjudicating Authority has not passed the order within 14 days as prescribed under section 9 of the I & B Code, which may render their applications infructuous.

3. On 10th April, 2014, when the matter was taken up, this Appellate Tribunal issued notice on the Respondents.

4. Today when the matter was taken up, Ld. Counsel for the Appellant(s) brought to our notice three order(s) all dated 9th May, 2017, passed by Adjudicating Authority in corresponding applications under section 9, whereby the Adjudicating Authority has pointed out the defects to be removed by each of the Appellants within 7 days. Ld. Counsel for the Appellant submits that the defects will be removed in course of day.

5. The question as to whether 14 days' period prescribed under sub-section (5) of section 9 of the 'I & B Code' is mandatory or directory fell for consideration before the Appellate Tribunal in "Company Appeal (AT) (Insolvency) No. 9 of 2017, M/s. J.K. Jute Mills Company Limited Vs. M/s. Surendra Trading Company". In the said appeal, the Appellate

Tribunal held that the 14 days period prescribed under sub-section (5) of Section 9 being a procedural law is directory.

6. In view of decision in "M/s J.K.Jute Mills Company Limited" now no further finding is required to be given in regard to same issue in these appeals. The appellants are allowed to complete the records within time granted by the Adjudicating Authority, if not completed. All the appeals stand disposed of with the aforesaid observations. No cost.

(Justice S.J. Mukhopadhaya)
Chairperson

(Mr. Balvinder Singh)
Member(Technical)

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