

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 1021 of 2020

In the matter of:

MadanlalBalmukundKarwa Company

....Appellant

Vs.

New Phaltan Sugar Works Ltd. &Ors.

....Respondents

Present:

Appellant: Mr. Vikrant Singh Bais, Advocate.

Company Appeal (AT) (Insolvency) No. 1022 of 2020

In the matter of:

Madanlal Trading Company

....Appellant

Vs.

New Phaltan Sugar Works Ltd. &Ors.

....Respondents

Present:

Appellant: Mr. Vikrant Singh Bais, Advocate

Company Appeal (AT) (Insolvency) No. 1023 of 2020

In the matter of:

Pawan Trading Company

....Appellant

Vs.

New Phaltan Sugar Works Ltd. &Ors.

....Respondents

Present:

Appellant: Mr. Vikrant Singh Bais, Advocate.

ORDER
(Through Virtual Mode)

04.12.2020: Delay in re-filing the appeals is condoned.

Order delivered on 11th November, 2019 by the Adjudicating Authority (National Company Law Tribunal), Mumbai Bench, approving the Resolution Plan of 'Shri Dutt India Pvt. Ltd.' in respect of Corporate Insolvency Resolution Process of the Corporate Debtor namely 'New Phaltan Sugar Works Limited' which had been unanimously approved by all the Committee of Creditors members by 100% voting has been assailed in all the three appeals which have been taken up together for consideration. Respondents are common to all the three appeals while Appellants in all the three appeals have suffered rejection of their claims during Corporate Insolvency Resolution Process. We accordingly propose to pass a common order.

2. Heard Mr. Vikrant Singh Bais, Advocate representing the Appellants and waded through the appeal paper book.

3. Admittedly, Resolution Plan submitted by the sole Resolution Applicant received unanimous approval of the Committee of Creditors after the dissenting creditors did fall in line and conveyed their assent to the Committee of Creditors. Thus, the approval by Committee of Creditors was with 100% vote shares. It is not in controversy that the claims filed by the Appellants were rejected on ground of delay before approval of the Resolution Plan. The prayer of Appellant through MA 3431 of 2019 in Company Appeal (AT) (Insolvency) No. 1021 of 2020 was rejected on the ground of delay by the Adjudicating Authority. Similar was the case with the prayer of Appellant through MA 3430 of 2019 in Company Appeal (AT) (Insolvency) No. 1022 of 2020 and the prayer of the Appellant through MA 3429 of 2019 in Company Appeal (AT) (Insolvency) No. 1023 of 2020. The only grievance projected on behalf of the Appellants is that the delay was occasioned due to financial crisis on account of non-

payment of money by the Appellants to their lenders. The Appellant in Company Appeal (AT) (Insolvency) No. 1023 of 2020 claims to have been arrested as a sequel to the filing of criminal cases against him. It is submitted that the Appellants have been victimized for the wrongful acts of the Directors of the Corporate Debtor who kept on giving false assurances to the Appellants. It is submitted that the Appellants had taken loan which was advanced to the Corporate Debtor and the private lenders had filed various criminal cases against the Appellants. Lastly, it is submitted that the Corporate Insolvency Resolution Process (CIRP) period was extended by the Adjudicating Authority by 90 days in terms of its order dated 11th September, 2019 and the Appellants had requested the Interim Resolution Professional (IRP) to consider their claims before the approval of the Resolution Plan but the same was not considered.

4. After hearing learned counsel for the Appellants and going through the records, we are of the considered opinion that the Appellants have failed to adhere to the timelines prescribed under the 'I&B Code' and the relevant Regulations as regards filing of claims. With reference to Page 65 of appeal paper book in Company Appeal (AT) (Insolvency) No. 1021 of 2020, it appears that the IRP has rejected the claim of Appellant which was not substantiated by documentary evidence. This was done on 21st May, 2019. Page 66 of the same appeal paper book is the copy of order passed by the Adjudicating Authority extending CIRP period by 90 days. This happened on 11th September, 2019. Subsequently, the prayer of Appellant seeking direction from the Adjudicating Authority in the name of Resolution Professional to accept the supporting document in support of the claim came to be turned down in the face of delay and latches on the part of Appellant. Similar situation obtaining in case of other two Appellants is not disputed. It is manifestly clear that the timelines have not been adhered to in so far as preferring of claims and submitting of proof to establish such claims is concerned. The fact that the CIRP period was extended by 90 days by the Adjudicating Authority at the instance of Resolution Professional would not clothe the Appellants with a right to claim consideration of their claims which stage admittedly was over. Moreover, subsequent rejection of I.As declining to allow proof to be adduced in

support of claims at the hugely belated stage leaves no room for contending that opportunity of submitting the claims and adducing proof in support thereof was not provided to the Appellants. Since the CIRP has crossed the culminating point with approval of the Resolution Plan of 'Shri Dutt India Pvt. Ltd.', the Appellants cannot be allowed to reopen the CIRP and direct *de novo* exercise after the CIRP period has come to an end.

There being no merit in these appeals, same are dismissed at the very threshold stage.

**[Justice Bansi Lal Bhat]
Acting Chairperson**

**[Justice Anant Bijay Singh]
Member (Judicial)**

AR/g