

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Comp. App. (AT) (Insolvency) No. 779 of 2020

IN THE MATTER OF:

Hasmukh Nanalal Shah

...Appellant

Versus

Shri Parag K. Sheth

...Respondent

Present:

For Appellant : **Ms. Natasha Dhruman Shah, Mr. Jasdeep Dhillon and
Ms. Shilpi Chowdhary, Advocates**

For Respondent : **Mr. Nipun Singhvi, Advocate**

O R D E R
(Through Virtual Mode)

15.09.2020 The impugned order of liquidation having been passed by the Adjudicating Authority on 5th July, 2019, the appeal filed on 12th March, 2020 is hopelessly time barred. Under the provisions of Section 61(2) of the 'I&B Code' appeal can be preferred within thirty days. The Proviso to Section 61(2) empowers this Appellate Tribunal to condone the delay for sufficient cause assigned by the Appellant but not exceeding fifteen days. The instant appeal has not been filed even within the extended time.

2. The appeal having not been preferred within the extended time and that too without assigning any sufficient cause stands dismissed.

3. Even on merit we find that the impugned order of liquidation has been passed by the Adjudicating Authority in deference to 100% voting of 'Committee of Creditors' after no resolution applicant came forward with a resolution plan within 180 days + 90 days = 270 days of the 'corporate insolvency resolution

process' period. The only ground on which the impugned order is sought to be reversed is that financial creditor (Bank of Baroda) has accepted the proposal of Appellant for settlement. This is stated to have happened on 22nd July, 2019 as recorded on page 7 of the appeal paper-book. This event has occurred around 17 days after passing of order of liquidation. This cannot be a ground to set aside the liquidation order even if the Bank of Baroda happens to be the sole creditor in the case. We make it clear that settlement can be reached during the liquidation proceedings within the ambit of Section 230 of the Companies Act.

4. Thus, the appeal does not lie on merit also. We accordingly dismiss the appeal. However, in view of the pendency of the appeal, we give liberty to the Appellant to apply for an arrangement/scheme for seeking settlement within one month.

Appeal is accordingly disposed off.

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

**[Justice Jarat Kumar Jain]
Member (Judicial)**

**[V.P. Singh]
Member (Technical)**

/ns/gc/