

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 273 of 2020**

**IN THE MATTER OF:**

**Laxmi Ventures (India) Ltd.**

**...Appellant**

**Versus**

**State Bank of India & Ors.**

**...Respondents**

**Present:**

**For Appellant :**           **Mr. Moiz K. Rafique, Advocate**

**For Respondents :**       **Mr. Navid Memon, Advocate for 1<sup>st</sup> Respondent**  
**Mr. Kunal Tandon, Mr. Manan Jaiswal, Mr. Mayank**  
**Kshirsagar, Mr. Parathasarathy Bose and Ms. Richa**  
**Sandilya, Advocates**

**O R D E R**

**17.02.2020**       The ‘State Bank of India’ moved an application under Section 7 of the ‘Insolvency and Bankruptcy Code, 2016’ (‘I&B Code’, for short) for initiation of the ‘Corporate Insolvency Resolution Process’ against ‘Laxmi Ventures (India) Limited’ (Appellant – Corporate Debtor). Before the admission of the application under Section 7 of the ‘I&B Code’, the ‘Corporate Debtor’ settled the matter with the ‘State Bank of India’ and when the matter was brought to the notice of the Adjudicating Authority (National Company Law Tribunal), Mumbai Bench, Mumbai, ‘I.A. No. 149/2020’ was filed by one Mr. Sunil Agarwal and Ors.’, who claimed to be 50% shareholders of the ‘Corporate Debtor’. The Adjudicating Authority (National Company Law Tribunal), Mumbai Bench while rightly rejected the intervention application observed as follows:

1. IA 149/2020 I C.P. (IB)-3307 (MB)/2019 is taken up for hearing. This is an Interlocutory Application filed by Mr. Sunil Agarwal & Others who were stated to be 50% shareholders of the Corporate Debtor.
2. The prayer made in the IA is for direction to the Financial Creditor or to the Corporate Debtor to furnish a copy of the OTS proposal made by the Corporate Debtor along with various submissions made by the Corporate Debtor to the Financial Creditor from time to time and further to allow the Applicants to intervene and implead themselves in the main CP 3307/2019. Ld. Counsel for the Applicants places reliance on an order dated 26.04.2012 passed by the Hon'ble Bombay High Court in "**Sunil Agarwal and Others vs. Laxmi Ventures (India) Limited & Others**" which reads as follows:
  - (i) The Appellants shall continue to work at the Bhilai unit and the Respondents shall not interfere with the same save and except that the nominee of the Respondents Mr. Rakesh Mourya (G.M. Technical) shall be posted at the Bhilai Unit, as Observer, who will only make a note of the day to day activities carried out at the said Unit pertaining to production and compliance of the statutory provisions by the said Unit. However, the information noted by the nominee shall not be used by the Company before

*any authorities and shall be produced before this Court on the next date of hearing.*

- (ii) The Appellants shall maintain accounts and shall produce the same before this Court on the next date of hearing along with the books of accounts and bank records from the year 2002 onwards.*
- (iii) The company Application is accordingly disposed of.*
- (iv) Place the Company Petition for hearing and final disposal on 6<sup>th</sup> July, 2012.”*

3. *This Bench is of the view that the order of the Hon’ble Bombay High Court is to enable the Applicants to continue to work at the Bhilai Unit and to injunct the Respondents in that Appeal from interfering with them. In terms of the submission made by the Ld. Counsel for the Applicants herein, this Bench feels that no harm will be caused if the Financial Creditor and the Corporate Debtor share copies of the OTS proposal and its acceptance with the Applicants in IA 149/2020, since the matter pertaining to his shareholding is being considered by the Hon’ble Bombay High Court. We direct accordingly. The same shall be shared within seven days from today. Prayer (b) at page of the Application is, therefore, partly allowed to that extent.*

4. *Further, we are not convinced at this stage that the Applicants have made out a case to intervene in the main CP and hence prayer (a) at page 9 of the IA is allowed.*
5. *I.A. No. 149/2020 in C.P. (IB)- 3307(MB)/2019 is **disposed** of accordingly.”*

Mr. Navid Memon, learned counsel appearing on behalf of ‘State Bank of India’ submits that ‘one time settlement’ has already been reached and ‘no due certificate’ has also been issued on 1<sup>st</sup> February, 2020.

Mr. Kunal Tandon, learned counsel appears on behalf of the Intervenors (Respondent Nos. 2, 3 and 4 - Mr. Sunil Agarwal and Others) and we intend to know the reasons for their intervention as the application filed under Section 7 of the I&B Code has become infructuous because of the settlement reached between the parties. He submits that the ‘Intervenors’ – Respondents, are 50% shareholders of the ‘Corporate Debtor’ who want to know whether the amount has been settled by selling the assets of the Bhilai Unit. Learned counsel appearing on behalf of the Appellant opposes such prayer in view of the fact that the Bhilai Unit has not been sold. However, we are not inclined to give any finding on the question as to whether any assets have been sold or not. If any shareholder has any dispute with the other shareholder, it will be open to him to move before the appropriate forum but he cannot intervene in the application filed under Section 7 which is now not maintainable.

For the reason aforesaid, we set aside the impugned order so far as it relates to observations at paragraph 3 of the impugned order dated 29<sup>th</sup> January, 2020. The application under section 7 filed by the State Bank of India stands withdrawn. The Adjudicating Authority (National Company Law Tribunal),

Mumbai Bench will close the proceedings. We make it clear that the order passed by the Adjudicating Authority (National Company Law Tribunal) or by this Appellate Tribunal will not come in the way of the intervenor/Respondents to move before the appropriate forum for appropriate relief, if they are aggrieved.

The appeal stands disposed of. No costs.

[Justice S.J. Mukhopadhaya]  
Chairperson

[ Justice Bansilal Bhat ]  
Member (Judicial)

/ns/rr/