

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 745 of 2019

IN THE MATTER OF:

The State of Telangana & Anr.

...Appellants

Vs.

Liquidator, Nizam Deccan Sugars Ltd. & Ors.

...Respondents

Present: For Appellants: - Mr. Ritin Rai, Senior Advocate with Mr. Krishna Dev, Mr. T.P.S Harsha and Ms. Ishita Bisht, Advocates.

For Respondents: - Mr. PBA Srinivasan, Mr. Parth Tandon, Advocates for R-8.

Mr. Subrahmanyam BKV, Advocate.

O R D E R

24.07.2019— Learned counsel appearing on behalf of the Appellants- 'The State of Telangana' and 'Director of Sugar and Cane Commissioner, Hyderabad' submits that the initiation of the 'Corporate Insolvency Resolution Process' on the basis of application under Section 10 of the Insolvency and Bankruptcy Code, 2016 ("I&B Code" for short) filed by 'M/s. Nizam Deccan Sugars Limited'- ('Corporate Debtor') was wrong as no decision was taken by the 'Corporate Debtor' in its Annual General Meeting of the shareholders.

2. It is further submitted that the 'State of Telangana' holds 100% shares in 'Nizam Sugars Limited' and the said 'Nizam Sugars Limited' has

Contd/-.....

49% shares in 'M/s. Nizam Deccan Sugars Limited'- ('Corporate Debtor'). The decision under Section 10 was taken without calling for any Annual General Meeting of the Shareholders of 'M/s. Nizam Deccan Sugars Limited'- ('Corporate Debtor') and 'Nizam Sugars Limited' of which 'The State of Telangana' has 98% shareholding, may not have been communicated at the time of the order of admission by the Adjudicating Authority. Therefore, he requested to allow the Appellants to implead 'Nizam Sugars Limited' as Appellant No.3 and to challenge the order of admission dated 20th September, 2017 under Section 10. It is stated that if this Appellate Tribunal is not agreeable to set aside the order of admission in such case, the appeal may be decided on merit against the impugned order of liquidation dated 3rd June, 2019.

3. In the facts and circumstances of the case, we allow the Appellant to file petition for addition of 'Nizam Sugars Limited' through its Managing Director as Appellant No.3 and to challenge the order of admission of application under Section 10 dated 20th September, 2017 within 10 days.

4. Mr. Parth Tandon, Advocate has already appeared on behalf of 'Andhra Bank' (8th Respondent) and Mr. Subrahmanyam BKV, Advocate appears on behalf of the Liquidator. Both of them are allowed to file reply affidavit within 10 days.

Post the appeal 'for orders' on 13th August, 2019.

In the meantime, the Liquidator will ensure that the company remains a going concern but will not sell or transfer or alienate moveable or immovable property of the 'Corporate Debtor' nor create any third party encumbrance. He may call for and collate the claims and proceed in terms of Sections 37, 38, 39 and other provisions of the 'I&B Code' and will follow the decision of this Appellate Tribunal in "**Y. Shivram Prasad Vs. S. Dhanapal & Ors.- Company Appeal (AT) (Insolvency) No. 224 of 2018**" disposed of on 27th February, 2019.

(Justice S.J. Mukhopadhaya)
Chairperson

(Justice A.I.S. Cheema)
Member(Judicial)

(Kanthi Narahari)
Member(Technical)

Ar/g