

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 707 of 2019

IN THE MATTER OF:

Jet Airways (India) Limited
(Offshore Regional Hub)

.... Appellant

Vs

State Bank of India & Anr.

.... Respondents

Present:

**For Appellant: Mr. Sumant Batra, Ms. Priyanka Anand and
Ms. Niharika Sharma, Advocates.**

**For Respondents: Mr. Ramji Srinivasan, Senior Advocate with
Ms. Gauri Rasgotra, Mr. Karan Khanna and
Ms. Sylona Mohapatra, Advocates.**

ORDER

12.07.2019 The question arises for consideration in this Appeal is whether separate proceeding(s) in ‘Corporate Insolvency Resolution Process’ against common ‘Corporate Debtor’ can proceed in two different countries, one having no territorial jurisdiction over the other.

In this case, we find that separate ‘Corporate Insolvency Resolution Process’/ liquidation proceedings have been initiated against same ‘Corporate Debtor’ namely – Jet Airways (India) Limited, one in India where Registered Office of the ‘Corporate Debtor’ is situated and another in Netherland (North Holland), where the Regional Hub of the ‘Corporate Debtor’ is situated. For the said reason, it is also required to be determined, whether by a Joint Agreement or understanding between the ‘Resolution Professional’ of ‘Corporate Debtor’ in India and Administrator in Holland (Netherland) as may be approved by this Appellate Tribunal, one proceeding in India can proceed for maximization of the asset of the ‘Corporate Debtor’ and balancing all the stake holders, including the Indian/Offshore Creditors/ Lenders.

Issue notice to the Respondents. Mr. Ramji Srinivasan, Senior Advocate along with Mr. Karan Khanna, learned Counsel and others appears on behalf of the State Bank of India (1st Respondent). First Respondent may file a reply affidavit suggesting the procedure that may be followed in the facts and circumstances of the case, without any conflicting interest of stake holders of both the countries. The reply affidavit may be filed within two weeks. Rejoinder, if any, may be filed by the Appellant within two weeks thereof.

In the meantime, let notice be issued on 2nd Respondent by speed post. Requisites along with process fee be filed by 15th July, 2019.

Post the case 'for admission' (after notice) on **21st August, 2019 at 12:00 Noon** on the top of the list.

As one proceeding with regard to Jet Airways (India) Limited ('Corporate Debtor') is pending in India and other in the North Holland, the Office is directed to mark the Appellant as Jet Airways (India) Limited (Offshore Regional Hub/ Office, through Administrator Mr. Rocco Mulder).

During the pendency of this Appeal, the Appellant Administrator and 2nd Respondent – 'Interim Resolution Professional' will cooperate with each other. It will be open to the Appellant Administrator to collate the claims of Offshore Creditors including 'Financial Creditors', 'Operational Creditors' and other stake holders and forward their details to the 2nd Respondent- 'Resolution Professional' for the purpose of preparing the Information Memorandum with the approval of the 'Committee of Creditors'.

Mr. Sumant Batra, Counsel appearing on behalf of Appellant Administrator assured that the Appellant Administrator will cooperate in the proceedings pending in India and will not sell, alienate, transfer, lease or create any third party interest on the offshore movable and immovable assets of the 'Corporate Debtor' [Jet Airways (India) Limited], which are or may be taken in his possession.

In view of such undertaking given on behalf of the Appellant Administrator, the impugned order dated 20th June, 2019 passed by the Adjudicating Authority (National Company Law Tribunal), so far as it relates to declaration that the offshore proceeding is not maintainable, shall remain stayed. Such issue may be decided at the time of hearing of this Appeal. All the rights and contentions of the parties are kept open. Further, the 'Interim Resolution Professional' of this country will ensure that 'Corporate Debtor' remains a going concern and will take assistance of the (suspended) Board of Directors, paid Director and the employees. The person who is authorised to sign the bank cheques may issue cheques only after authorization of the Interim Resolution Professional. The bank accounts of the Corporate Debtor be allowed to be operated for day-to-day functioning of the Company such as for payment of current bills of the suppliers, salaries and wages of the paid Director, the employees'/workmen electricity bills etc., subject to availability of fund.

Pendency of the Appeal will also not come in the way of the Appellant Administrator to negotiate the matter with 2nd Respondent-'Resolution Professional', who in consultation with the 'Committee of Creditors' may reach a terms of settlement with the Appellant in the best interest of the 'Corporate Debtor' and all the stake holders.

[Justice S. J. Mukhopadhaya]
Chairperson

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

[Kanthi Narahari]
Member (Technical)

Ash/GC