

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Ins) No. 316 of 2020

IN THE MATTER OF:

Panch Tatva Promoters Pvt. Ltd.

....Appellant

Vs.

**GPT Steel Industries Ltd.
(Through Resolution Professional) & Ors.**

....Respondents

Present:

For Appellant: Mr. Abhijit Sinha, Ms. Prachi Johri and Mr. Aditya Shukla, Advocates

**For Respondents: Mr. Tisham Rati Sen, Ms. Riddhi Sancheti and Ms. Aarti Kumar, Advocates for RP
Mr. Rony O John and Mr. Piyush Swami, Advocates for R-2.
Mr. Raghav Kakkar, Mr. Ritesh Tiwari and Mr. Vikas Sharma, Advocates for R-3.**

ORDER

24.02.2020: The Appellant/ Applicant has preferred the instant appeal before this Tribunal, as an 'Aggrieved Person' in regard to the impugned order dated 18.02.2020 in I.A. No. 116/ 2020 in CP (IB) No. 157/NCLT/AHM/2018.

2. The Adjudicating Authority (National Company Law Tribunal), Ahmedabad Bench while passing the impugned order observed the following and directed the matter to be listed on 25.02.2020:-

"Order

The parties are represented through learned counsels.

COC as well as RP is present, and one of the Resolution Applicant who is Highest bidder-1 is present.

H-1 has filed reply to the Applicant in IA 116/2020.

List the matter on 25.02.2020."

3. The Learned Counsel for the Appellant submits that the I.A. No. 116/2020 was heard on 13.02.2020 and again heard on 18.02.2020, but the matter was posted to 25.02.2020, without there any interim relief being granted. At this juncture, the Learned Counsel for the Appellant contends that the Applicant/ Appellant has furnished 'Revised Resolution Plan' which it believes would be considerably better than the third Respondent Resolution Plan and that in the interest of maximising the value of assets of the 'Corporate Debtor' for all stakeholders, and to provide an opportunity to the Appellant to resolve the Asset the 'Committee of Creditors' should be directed to consider its 'Resolution Plan'.

4. The real grievance of the Appellant is that the Adjudicating Authority (National Company Law Tribunal), Ahmedabad Bench orally refused to grant any interim relief and posted the matter for consideration to 25.02.2020 i.e. after the end of 'Corporate Insolvency Resolution Process'. As such the Appellant is said to be an 'Aggrieved Person' in regard to the fact that the Adjudicating Authority had failed to exercise its jurisdiction in so far as not granting an 'interim orders' or passing any directions to the Resolution Professional/ Committee of Creditors.

5. The term 'Grievance' refers to substantial grievance. An order is to cause a person, a legal grievance by wrongfully depriving him of something as per decision of Hon'ble Supreme Court '*Adi Pherozshah Gandhi v. H. M. Seervai AIR 1971 SCP 385*'.

6. It must be borne in mind that the power to hear an appeal from the orders of Adjudicating Authority (National Company Law Tribunal), Ahmedabad Bench is to be exercised, filed under Section 61 of the I&B Code. An 'Appeal' arising out of an order in approving the 'Resolution Plan' is fettered by the grounds specified under Section 61 (3). Also that, an 'Appeal' can be filed under Section 61 of the I&B Code when the Adjudicating Authority rejects a 'Resolution Plan'.

7. At this stage, this Tribunal on going through the impugned order dated 18.02.2020 in I.A. No. 116/2020 is of the considered view that the matter is still pending at large and wide open in I.A. No. 116/2020 before the

Adjudicating Authority (National Company Law Tribunal) Ahmedabad Bench and viewed in this perspective the instant Appeal filed by the Appellant/Applicant is a premature and also an otiose one.

8. Considering the fact that the present Appeal is a premature and otiose one, at this stage, this Tribunal, simpliciter, without going into the merits of the subject matter of the issue and also not delving deep into the same and also not expressing any view one way or other, because of the reason that if any opinion is expressed then it may affect the interest of the parties in furtherance of substantial cause of justice directs the Adjudicating Authority (National Company Law Tribunal), Ahmedabad Bench to dispose of the I.A. No. 116/2020 finally in CP (IB) 157/NCLT/AHM/2018, within a period of one week from the date of receipt of the copy of this order.

9. It is open to the respective parties to raise all factual and legal pleas before the Adjudicating Authority (National Company Law Tribunal), Ahmedabad Bench which shall take into account of the same, in right earnest, and to pass a reasoned order within the time granted by this Tribunal (after providing opportunity to the respective sides). It is made clear that the Adjudicating Authority (National Company Law Tribunal), Ahmedabad Bench is to pass orders within the time determined by this court before approving or rejecting the 'Resolution Plan' of the Appellant in question.

With the aforesaid observations and directions the Appeal stands disposed of. I.A No. 833 & 834 of 2020 are closed. No costs.

[Justice Venugopal M.]
Member (Judicial)

[V. P. Singh]
Member (Technical)

[Shreesha Merla]
Member (Technical)

sa/nn