

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
Company Appeal (AT) (Insolvency) Nos. 90-91 of 2021**

In the matter of:

Noida Special Economic Zone Authority

....Appellant

Vs.

Manish Aggarwal (Resolution Professional) & Ors.

....Respondents

Present:

Appellant: Mr. R. Soundararajan, Mr. Anshul Rawat, Advocates.

**Respondents: Mr. Abhishek Anand, Mr. Mohak Sharma, Advocates
for R1 & R2.**

ORDER

(Through Virtual Mode)

12.02.2021: Company Appeal (AT) (Insolvency) No.91 of 2021 has been filed by 'Noida Special Economic Zone Authority' ('Noida SEZ Authority' for short) who is aggrieved of the approval of the Resolution Plan of the Corporate Debtor- 'M/s. Shree Bhomika International Ltd.' vide impugned order dated 5th October, 2020 passed by the Adjudicating Authority (National Company Law Tribunal), New Delhi, Court-III to the extent it grants exemption of payment to 'Noida SEZ Authority' qua any type of fee/ penalty payable on account of renewal of sublease or as transfer charges due to change in directorship/ shareholding. It is submitted by Mr. R. Soundararajan, learned counsel for the Appellant that 'Noida SEZ Authority' is an Authority under the Government of India and out of its admitted claim of Rs.6,29,18,121/- only amount of Rs.50 lacs was allocated to it besides granting exemption which was within the exclusive domain of the Authority. Thus, it is contended that the approval of the Resolution Plan to that extent is unsustainable.

2. After hearing learned counsel for the Appellant for a while, we find that the issue raised encompasses mixed question of law and fact which has to be addressed.

Contd/-.....

3. However, Company Appeal (AT) (Insolvency) No.90 of 2021 in regard to impugned order dated 27th November, 2020 seeking setting aside of the order of the dismissal of application against approval of the Resolution Plan by the Adjudicating Authority being not maintainable is dismissed as withdrawn, as learned counsel for the Appellant submits that in view of the notice being issued in the appeal preferred against approval of the Resolution Plan, prayer in Company Appeal (AT) (Insolvency) No.90 of 2021 becomes infructuous.

4. Issue Notice upon Respondents. Notice on behalf of Respondent Nos. 1 and 2 is waived and accepted by Mr. Abhishek Anand, Advocate. No further notice need be issued to him. He may file reply-affidavit within two weeks. Rejoinder, if any, be filed within two weeks thereof.

5. Let notice be issued upon Respondent No.3. Appellant to provide mobile Nos./ e-mail address of the Respondent No.3. Notice be issued through e-mail or any other available mode. Requisites along with process fee be filed within three days.

List the appeal 'for admission (after notice)' on 18th March, 2021 before Court No.III.

As an ad-interim, we direct that the implementation of the approved Resolution Plan shall be subject to the outcome of this appeal.

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

**[Dr. Ashok Kumar Mishra]
Member (Technical)**

**[Dr. Alok Srivastava]
Member (Technical)**

AR/g