

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 1190 of 2019

IN THE MATTER OF:

Sanjay Chemicals (India) Private Limited Appellant

Vs

Sharon Bio-Medicine Limited Respondent

Present:

**For Appellant: Mr. Bharat Sood and Mr. P.S. Sudheer,
Advocates.**

For Respondent: Mr. Ankur Kashyap, Advocate.

ORDER

11.11.2019 For the default of three Invoices dated 6th January, 2016, 13th January 2016 and 13th July, 2017, the Appellant preferred application under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the '**I&B Code**') for initiation of 'Corporate Insolvency Resolution Process' against Sharon Bio-Medicine Ltd. ('Corporate Debtor').

2. The Adjudicating Authority (National Company Law Tribunal), Mumbai Bench, Mumbai noticed that the 'Corporate Insolvency Resolution Process' was earlier initiated against M/s. Sharon Bio-Medicine Ltd. ('Corporate Debtor') by order dated 11th April, 2017. The 'Resolution Plan' was approved by the Adjudicating Authority on 28th February, 2018, which was also affirmed by this Appellate Tribunal by judgment dated 19th December, 2018 in Company Appeal (AT) (Insolvency) No.164 of 2018. The said order was challenged before the Hon'ble Supreme Court, which was also dismissed by the Hon'ble Supreme Court on 5th April, 2019 and as a result, approved 'Resolution Plan' has attained the finality.

3. Having noticed the aforesaid fact, the Adjudicating Authority rightly came to the conclusion that the outstanding dues were prior to the period of initiation of 'Corporate Insolvency Resolution Process' and the Appellant having not filed the claim at that stage, now application under Section 9 of

the I&B Code after completion of the 'Corporate Insolvency Resolution Process' against 'Corporate Debtor' was not maintainable.

4. Having heard learned Counsel for the Appellant and Mr. Ankur Kashyap, learned Counsel for the Respondent, we find no reason to interfere with the impugned order. The Appeal is dismissed.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice Venugopal M.]
Member (Judicial)

[Justice Jarat Kumar Jain]
Member (Judicial)

Ash/GC