

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 1063 of 2019

IN THE MATTER OF:

GSEC Ltd.

...Appellant

Versus

Fenil Bharatbhai Shah & Anr.

...Respondents

Present:

For Appellant : Mr. Rasesh Parikh, Advocate

**For 1st Respondent: Mr. Arvind Kumar Gupta and Ms. Henna George,
Advocates**

**For 2nd Respondent : Mr. Milind Garg and Mr. Harimanti Ray Choudhury,
Advocates**

Company Appeal (AT) (Insolvency) No. 1215 of 2019

IN THE MATTER OF:

Fenil Bharatbhai Shah

...Appellant

Versus

Ardor Global Pvt. Ltd. & Ors.

...Respondents

Present:

**For Appellant : Mr. Arvind Kumar Gupta and Ms. Henna George,
Advocates**

O R D E R

21.11.2019 Since both the appeals arise out of common impugned order dated 26th August, 2019 passed by the Adjudicating Authority (National Company Law Tribunal) Ahmedabad Bench, Ahmedabad in 'CP(IB) No. 33 of 2017', same are clubbed together for the purpose of hearing and disposal.

Having heard the learned counsel for the Appellants and being satisfied with the grounds, the delay of 8 days in '**Company Appeal (AT) (Insolvency) No. 1063 of 2019**' and 11 days in '**Company Appeal (AT) (Insolvency) No. 1215 of 2019**' in preferring these appeals is condoned.

I.A. No. 3266 of 2019 and I.A. No. 3407 of 2019 stand disposed of.

The Appellants, in both Appeals, are the 'Resolution Applicants' aggrieved of the impugned order whereby and whereunder the Corporate Debtor company - 'Ardor Global Private Limited' has been ordered to be liquidated. The impugned order has been assailed on different grounds in these two appeals. However, the common thread running through the web of these appeals is that the order of 'Liquidation' qua the 'Corporate Debtor' is sought to be annulled and further time granted for consideration of the 'resolution plans' submitted by these 'resolution applicants' notwithstanding the fact that the 'corporate insolvency resolution process' period has expired. After hearing the learned counsel for the parties for a while we are of the considered opinion that these appeals lack merit. We say so as it is not in controversy that the 'corporate insolvency resolution process' period has already expired on 26th April, 2018 even after the Adjudicating Authority vide its order dated 15th January, 2018 extended the 'corporate insolvency resolution process' for a further period of '90 days' beyond the prescribed '180 days'. The factum of expiry of the timeline prescribed by the 'Insolvency and Bankruptcy Code, 2016' for completion of the 'corporate insolvency resolution process' despite extension by '90 days' coupled with the fact that no exclusion of any period was sought while seeking extension stares in the face of the appellants who cannot be allowed to raise the issue of exclusion of certain period at this stage when such opportunity was available at the time

of seeking of extension of 'corporate insolvency resolution process' period. This apart, these appeals are squarely covered by the judgment rendered by this Appellate Tribunal in '**Sunil S. Kakkad. Vs. Parag Sheth, Resolution Professional/Liquidator & Anr. – in 'Company Appeal (At) (Insolvency) Nos. 1260 -1261 of 2019'**' relevant part of which is extracted herein below:

“7. In the present case, we find that 'Corporate Insolvency Resolution Process' was initiated against the M/s Sai Infosystems (India) Ltd. ('Corporate Debtor') on 30th November, 2017 and now almost about two years have elapsed, we are not inclined to set-aside the order for re-starting the 'Resolution Process', even if there is some infirmity in the impugned order during the 'Resolution Process'.

In view of the foregoing reasons, these appeals are dismissed. However, the dismissal of these appeals shall not preclude the Appellants, if eligible, to provide scheme/arrangement to take-over the 'Corporate Debtor' by moving the application in terms of Section 230(a) of the Companies Act, 2013. If such move is initiated and the application preferred by the Appellants, subject to their eligibility, the 'Liquidator' will consider the same and proceed in accordance with 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. Needless to say that the 'Promoters' are not eligible to file any scheme/arrangement under Section 230 of the Companies Act, 2013 as held by this Appellate Tribunal in '**Jindal Steel & Power Limited vs. Arun Kumar**

Jagatramka & Anr.’ – ‘Company Appeal (AT) (Insolvency) No. 221 of 2018’

disposed of on 24th October, 2019.

[Justice Bansilal Bhat]
Member (Judicial)

[Justice Venugopal M.]
Member (Judicial)

/ns/gc