

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 329 of 2018**

**IN THE MATTER OF:**

**State Bank of India** **...Appellant**

**Vs.**

**Punjab National Bank & Ors.** **...Respondents**

**Present: For Appellant: - Mr. Ramji Srinivasan, Senior Advocate with Mr. Ankur Mittal, Ms. Sylona Mohapatra, Mr. Nikhil Ramdev, Advocates.**

**Mr. P.V. Dinesh and Mr. R.S. Lakshman, Advocates.**

**For Respondents: - Mr. N V Srinivasan, Advocate for R1.**

**Mr. Varun Srinivasan, Advocate for Respondent Nos. 4, 5, 6, 7, 11, 13, 17 & 23.**

**Mr. T. Ravi Chandran, Mr. K.V. Balakrishnan and Mr. Rahul Kumar Sharma, Advocates for R-3.**

**Company Appeal (AT) (Insolvency) No. 529 of 2018**

**IN THE MATTER OF:**

**Punjab National Bank** **...Appellant**

**Vs.**

**State Bank of India & Ors.** **...Respondents**

**Present: For Appellant: - Mr. N V Srinivasan, Advocate.**

**Mr. P.V. Dinesh and Mr. R.S. Lakshman, Advocates.**

**For Respondents: - Mr. Ramji Srinivasan, Senior Advocate with Mr. Ankur Mittal, Ms. Sylona Mohapatra, Mr. Nikhil Ramdev, Advocates.**

**Mr. T. Ravi Chandran, Mr. K.V. Balakrishnan and Mr. Rahul Kumar Sharma, Advocates for R-3.**

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**Mr. Varun Srinivasan, Advocate for Respondent Nos. 4, 5, 6, 7, 11, 13, 17 & 23.**

**O R D E R**

**11.04.2019—**

**In Company Appeal (AT) (Insolvency) No. 329 of 2018**

The Appellant- 'State Bank of India' challenged the impugned order dated 23<sup>rd</sup> May, 2018 passed by the Adjudicating Authority (National Company Law Tribunal), Division Bench, Chennai, whereby the 'State Bank of India' has been directed to reverse the debits which has been made from the FD account so that all the participants of the 'Committee of Creditors' may be put on an equal footing to the extent of their voting rights in the 'Committee of Creditors'.

2. We have heard learned counsel for the parties and perused the records.

3. Learned Senior Counsel for the Appellant submits that the margin money was separately kept from the FD account prior to initiation of the 'Corporate Insolvency Resolution Process'. However, it is not in dispute that the margin money belongs to the 'Corporate Debtor' which was kept in the FD account of the 'Corporate Debtor' and therefore, we are of the view that the said account could not have been debited during the period of Moratorium.

4. It is submitted by the learned Senior Counsel that the amount was kept by the 'Corporate Debtor' to pay the amount prior to the 'Resolution Process' for paying the amount to the 'Operational Creditors' against Letters of Credit.

5. It is further submitted that after 'Resolution Process', such arrangement was also approved by the 'Resolution Professional'.

6. For reasons stated by us in paragraph 3 supra, we are not inclined to interfere with the impugned order dated 23<sup>rd</sup> May, 2018. However, it will be open to the 'State Bank of India' to take appropriate steps after Moratorium period is over.

7. We make it clear that it will be open to the 'Resolution Professional' to utilise the money for the purpose of 'Resolution Costs' to keep 'Corporate Debtor' a going concern and in such case, the 'State Bank of India' may ask for appropriate relief from the 'Resolution Professional'.

8. The appeal stands disposed of with aforesaid observations and directions. No cost.

**In Company Appeal (AT) (Insolvency) No. 529 of 2018**

9. The Appellant- 'Punjab National Bank' having preferred this appeal against the same very impugned order dated 23<sup>rd</sup> May, 2018 passed by the Adjudicating Authority (National Company Law Tribunal), Division

Bench, Chennai, after delay of 50 days beyond the period of 30 days. In this circumstances, the delay is beyond 15 days from the 30 days of date of filing, this Appellate Tribunal has no jurisdiction to condone the delay.

The appeal is dismissed being barred by limitation.

(Justice S.J. Mukhopadhaya)  
Chairperson

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

(Kanthi Narahari)  
Member(Technical)

Ar/g