

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 503 of 2020

IN THE MATTER OF:

Mr. Babumanoharan

...Appellant

Versus

Indian Bank & Ors.

...Respondents

Present:

For Appellant:

**Mr. Vikram V., Senior Advocate with Mr. Aniruddha
Deshmukh, Advocates**

For 1st Respondent:

**Mr. Jayesh V. Dolia and Mr. Shanmugam
Sundram, Advocates**

**For 2nd & 3rd
Respondent:**

**Mr. Ramaswamy Meyyappan and Mr. Umesh Garg,
Advocates**

O R D E R
(Through Virtual Mode)

04.06.2020 Learned counsel for the Respondents raised an objection to the maintainability of this appeal on the ground of limitation contending that the appeal has been filed beyond the prescribed period of 30 days and even the extended period of 15 days as provided under Section 61 of the 'I&B Code'. However, we find that the certified copy of the order has been provided to the 'Corporate Debtor' on 27th February, 2020 whereas the appeal has been filed on 18th March, 2020. Thus, we find that the appeal has been preferred within the prescribed period of 30 days. The objection raised on this score is accordingly rejected.

Appellant – ‘Corporate Guarantor’ is aggrieved of the impugned order dated 26th September, 2019 passed by the Adjudicating Authority (National Company Law Tribunal), Division Bench, Chennai by virtue whereof application under Section 7 of the ‘Insolvency and Bankruptcy Code, 2016’ (‘I&B Code’ for short) moved by the ‘Financial Creditor’ – Indian Bank has been admitted and the ‘corporate insolvency resolution process’ commenced with consequential orders and the nature of slapping of moratorium on the assets of the ‘Corporate Debtor’ and also appointment of the ‘Interim Resolution Professional’. The issue raised in this appeal is that since the ‘corporate insolvency resolution process’ commenced at the instance of the same ‘Financial Creditor’ i.e. Respondent No. 1 is underway as against the ‘Corporate Debtor’, in respect of same financial debt in terms of the judgment rendered by this Appellate Tribunal in ***Dr. Vishnu Kumar Agarwal vs. M/s. Piramal Enterprises Ltd.*** in ‘*Company appeal (AT) (Insolvency) NO. 346 of 2018*’ ‘corporate insolvency resolution process’ could not be simultaneously initiated against the ‘Corporate Guarantor’. Learned counsel for the Appellant further submits that the judgment rendered in ‘***Dr. Vishnu Kumar Aggarwal (Supra)*** case, though appealed against which is pending for consideration before the Hon’ble Supreme Court in appeal, has not been stayed.

Let notice be issued on the Respondents.

At this stage, Mr. Jayesh V. Dolia, Advocate accepts notice on behalf of 1st Respondent whereas notice on behalf of 2nd and 3rd Respondent is accepted by Shri Ramaswamy Meyyappan, Advocate. Reply-affidavit may be filed by the Respondents within two weeks along with their Vakalatnama. Rejoinder, if any, may be filed within two weeks thereof.

List the matter 'for Admission (After Notice)' on **15th July, 2020.**

Meanwhile, since the 'Committee of Creditors' is stated to have been constituted, further conducting of meetings and continuation of resolution process is kept on hold till the next date of hearing.

[Justice Bansi Lal Bhat]
Acting Chairperson

[Justice Anant Bijay Singh]
Member (Judicial)

[Dr. Ashok Kumar Mishra]
Member (Technical)

/ns/RR/