

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
Company Appeal (AT) (Insolvency) No. 106 of 2021**

In the matter of:

Mohinish Kumar & Ors.

....Appellants

Vs.

Premsons Super Steels Pvt. Ltd. & Ors.

....Respondents

Present:

Appellants: Mr. Kunal Sabharwal, Mr. Ishaan Singla, Advocates.

Respondents: Ms. Komal Abrol, Mr. Pulkit Goyal, Advocates for R1.

ORDER

(Through Virtual Mode)

17.02.2021: I.A. No. 246 of 2021 has been filed by the Appellant for seeking exemption from filing certified copy of the impugned order and certified true typed/ translated copies of the Annexures. I.A. No. 246 of 2021 stands disposed off with direction to the Appellant to file the certified copy of the impugned order and certified true typed/ translated copies of the Annexures within two weeks.

2. Since the impugned order has been passed on 27th February, 2020 and thereafter lockdown had been imposed due to outbreak of COVID-19 Pandemic w.e.f 25th March, 2020 and keeping in view the directions passed by the Hon'ble Apex Court in *suo moto* jurisdiction as also by this Appellate Tribunal in *suo moto* jurisdiction, extending the limitation, we find that the appeal is within time.

Contd/-.....

3 Appellant who claims to be the major shareholder of the Corporate Debtor sought modification of order admitting application of Corporate Debtor under Section 10 of the Insolvency and Bankruptcy Code, 2016 ("I&B Code" for short) passed on 23rd July, 2019 by the Adjudicating Authority (National Company Law Tribunal), New Delhi, Court-III, which came to be dismissed in terms of the impugned order dated 27th February, 2020 on the ground that the Corporate Insolvency Resolution Process (CIRP) has culminated in passing of the Resolution by the Committee of Creditors (COC) to liquidate the Corporate Debtor and the only remedy available to Appellants would be by way of an appeal.

4. Heard Mr. Kunal Sabharwal, Advocate representing the Appellants and perused the record. It is contended on behalf of the Appellant that the Respondent Nos. 2 and 3 who failed to adhere to the Terms of Memorandum of Settlement dated 15th March, 2016, on the strength of forged and doctored documents succeeded in initiating CIRP against the Corporate Debtor which is being pushed into liquidation to the detriment of legal rights and legitimate interests of the Appellant.

5. Issue Notice upon Respondents. Notice on behalf of Respondent No.1 is waived and accepted by Ms. Komal Abrol, Advocate. No further notice need be issued to her. It is submitted on behalf of Respondent No.1 that the Adjudicating Authority has passed the order of liquidation on 28th August, 2020 and assets have already been sold. Our notice has further been invited to

Page 117 of the appeal paper book where a copy of the order dated 28th August, 2020 sending the Corporate Debtor into liquidation has been placed and forms part of the appeal paper book. We are surprised that despite being aware of this order of liquidation having been passed by the Adjudicating Authority, same has not been assailed by the Appellant. Faced with this factual position, Mr. Kunal Sabharwal, Advocate representing the Appellants seeks time to file appeal against order dated 28th August, 2020.

List the appeal 'for admission (after notice)' on 8th March, 2021.

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

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

AR/g