

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 1148 of 2019

IN THE MATTER OF:

**Shearson Investment and Trading
Company Pvt. Ltd.**

...Appellant

Versus

Shri Anil Goel, Liquidator

...Respondent

Present:

For Appellant :

**Mr. Rajiv Ranjan, Senior Advocate with
Ms. Aliya durafshan, Mr. Hitesh Sachar, Ms. Namita
Jose, Advocates for the Appellants**

For Respondent:

Mr. Kanishk Khetan, Advocate for Liquidator

O R D E R

05.11.2019 This appeal has been filed by the Appellant claiming to be a 'Shareholder' of '*M/s. Birla Cotsyn (India) Limited*' (Corporate Debtor) against the impugned order dated 24th September, 2019 passed in M.A. No. 2929/2019 in C.P. (IB)-579/(MB)/2018 passed by the Adjudicating Authority (National Company Law Tribunal), Mumbai Bench, Mumbai, whereby the 'corporate insolvency resolution process' (initiated initially by the 'Financial Creditor' – '*Edelweiss Asset Reconstruction Co. Ltd.*') culminated into the order of 'Liquidation'. This 'Liquidation' order dated 24th September, 2019 has been challenged in the present appeal. Although the appeal purports to challenge the 'Liquidation' order, in substance the appeal seeks to quash all the orders passed in the 'insolvency process' on the basis that the initial application itself could not have been admitted on the ground of limitation.

Heard learned counsel for the Appellant.

In this matter application under Section 7 of the 'I&B Code' was admitted by the Adjudicating Authority (National Company Law Tribunal), Mumbai Bench, Mumbai on 20th November, 2018. Without challenging the same, this appeal has been filed after impugned liquidation order dated 24th September, 2019 was passed raising grounds that the initial application admitted under Section 7 of the 'Insolvency and Bankruptcy Code, 2016 (for short, 'the I&B Code') on 20th November, 2018 was time barred and so all orders passed in the corporate insolvency process should be quashed.

Learned counsel for the Appellant states that the order admitting the application under Section 7 of the 'I&B Code' itself was time barred. The counsel wants this Tribunal to look into the question of limitation with regard to the application admitted on 20th November, 2018. It is stated that the question of limitation goes to the root of the matter. Learned counsel for the Respondent is submitting that he can show that the matter was within limitation. He is trying to refer to documents.

We are of the view that question of limitation is a mixed question of law and facts. The initial order of admission of Section 7 application has not been challenged before us. If the Appellant was aggrieved by such admission of Section 7 application by which 'corporate insolvency resolution process' started and various orders were passed, the Appellant should have challenged those orders within the limitation in appeal. Sub-section (2) of Section 61 of the 'I&B Code' permits this Tribunal to consider an impugned order if the appeal is filed within 30 days. This Appellate Tribunal has powers to condone the delay of 15 days (and no more) over and above the period of appeal.

We do not find any reason to entertain this appeal which purports to challenge the liquidation order, but in effect seeks quashing of admission order and others for which this appeal is time bound. The appeal does not spell out or show how order of 'Liquidation' (impugned order) is bad or illegal.

We decline to entertain this appeal. The appeal is accordingly dismissed at the stage of admission. No costs.

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

[Justice Venugopal M.]
Member (Judicial)

[Justice Jarat Kumar Jain]
Member (Judicial)

/ns/sk