

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 861 of 2019

IN THE MATTER OF:

M/s. Next Orbit Ventures

...Appellant

Vs.

Print House (India) Pvt. Ltd. & Anr.

...Respondents

Present: For Appellant: - Mr. Ramji Srinivasan, Senior Advocate with Mr. Ajay K. Jain, Mr. Atanu Mukherjee, Ms. Sylona Mohapatra, Mr. Nikhil Ramdev, Advocates.

For Respondents: - Mr. Dinkar Singh, Advocate for R-1.

J U D G M E N T

SUDHANSU JYOTI MUKHOPADHAYA, J.

In the ‘Corporate Insolvency Resolution Process’ against ‘Print House (India) Private Limited’- (‘Corporate Debtor’), one Miscellaneous Application was filed by ‘Sify Technologies Limited’ for additional information from the ‘Resolution Professional’ to enable the said Applicant to submit a ‘Resolution Plan’ and the only prayer was made to condone the delay of the submission of the ‘Resolution Plan’ as the Applicant is not in a position to reasonably evaluate the liabilities and claims that may devolve upon the said Applicant- ‘Sify Technologies Limited’.

2. The Adjudicating Authority (National Company Law Tribunal), Mumbai Bench, Mumbai on hearing the said Applicant- 'Sify Technologies Limited' and the 'Resolution Professional' and the party who submitted the 'Resolution Plan' within the due date including their objections, directed the 'Committee of Creditors' to convene its meeting and to consider the 'Resolution Plan' submitted by the said Applicant- 'Sify Technologies Limited' on 5th August, 2019 along with others by impugned order dated 7th August, 2019.

3. Another Miscellaneous Application No. 2682 of 2019 filed by the Applicant viz 'M/s. Honest Orbit Ventures', another 'Resolution Applicant' for directing the 'Committee of Creditors' to consider the 'Resolution Plan' submitted by the said 'Resolution Applicant'- 'M/s. Honest Orbit Ventures'. It was argued that the 'Resolution Plan' was submitted within time prescribed as per the advertisement of Expression of Interest. In this background, the Adjudicating Authority allowed the prayer and directed the 'Resolution Professional' to put up the 'Resolution Plan' before the 'Committee of Creditors' for due consideration and the said prayer was declared to have become redundant.

4. The outcome of the above decision was to direct the 'Committee of Creditors' to convene a Meeting on 12th August, 2019, at a time and place as may be decided by the 'Committee of Creditors'. It was ordered to open the 'Resolution Plan' and put up the same before the 'Committee of

Creditors' for due consideration. Miscellaneous Application No. 2682/2019 was disposed of accordingly.

5. A third Miscellaneous Application No. 2149 of 2019 filed by the Government Employee Provident Fund Employees Organisation was entertained and allowed by the Adjudicating Authority by the same impugned order dated 7th August, 2019 admitting the claim of the Government Department.

6. The aforesaid combined impugned order dated 7th August, 2019 is under challenge in this appeal.

7. The Appellant who is one of the 'Resolution Applicants' submitted the plan within time. It has objection with regard to the plan as may be submitted by the aforesaid Applicants particularly 'Sify Technologies Limited'.

8. Learned counsel for the Appellant submitted that the last date for submission of the 'Resolution Plan' was 10th July, 2019 and 270 days was to expire on 14th July, 2019.

9. It was further submitted that the 'Resolution Applicant' based upon information/ data shared by the 'Resolution Professional' submitted its 'Resolution Plan' along with earnest deposit of Rs. 1.5 crores on 10th July, 2019.

10. Further, according to the counsel for the Appellant, the case of 'M/s. Sify Technologies Limited' is that no realistic 'Resolution Plan' can

be worked out in absence of information as mentioned in para-8 of Misc. Application No. 2438 of 2019 and, therefore, the 'Resolution Plan' submitted by 'Sify Technologies Limited', on its own, saying is unrealistic and therefore, should not be considered.

11. Section 12 of the 'I&B Code' has been amended recently and come into effect w.e.f. 16th August, 2019 which reads as follows:

“12. Time-limit for completion of insolvency resolution process.— (1) *Subject to sub-section (2), the corporate insolvency resolution process shall be completed within a period of one hundred and eighty days from the date of admission of the application to initiate such process.*

(2) *The resolution professional shall file an application to the Adjudicating Authority to extend the period of the corporate insolvency resolution process beyond one hundred and eighty days, if instructed to do so by a resolution passed at a meeting of the committee of creditors by a vote of seventy-five per cent. of the voting shares.*

(3) *On receipt of an application under sub-section (2), if the Adjudicating Authority is satisfied that the subject matter of the case is such that corporate insolvency*

resolution process cannot be completed within one hundred and eighty days, it may by order extend the duration of such process beyond one hundred and eighty days by such further period as it thinks fit, but not exceeding ninety days:

Provided that any extension of the period of corporate insolvency resolution process under this section shall not be granted more than once.

Provided further that the corporate insolvency resolution process shall mandatorily be completed within a period of three hundred and thirty days from the insolvency commencement date, including any extension of the period of corporate insolvency resolution process granted under this section and the time taken in legal proceedings in relation to such resolution process of the corporate debtor:

Provided also that where the insolvency resolution process of a corporate debtor is pending and has not been completed within the period referred to in the second proviso, such resolution process shall be completed within a period of ninety days from the date of commencement of the Insolvency and Bankruptcy Code (Amendment) Act, 2019.”.

12. As per third proviso to Section 12, now 90 days more time has been given to complete the 'Resolution Process' from the date the aforesaid amendment has come into force i.e. from 16th August, 2019.

13. In view of the aforesaid development, as further time has been allowed under the 'I&B Code', we are not inclined to interfere with the impugned order dated 7th August, 2019 merely on the ground that the Appellant will have to face the consequence. If one or other 'Resolution Plan' is found to be more viable and feasible and will maximise the assets of the 'Corporate Debtor', balancing all the stakeholders by maximising the assets of the 'Financial Creditor'/ 'Operational Creditor' and others, no right accrues to any individual Applicant(s) to stall such process.

We find no merit in this appeal. It is accordingly dismissed. No costs.

[Justice S.J. Mukhopadhaya]
Chairperson

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

[Kanthi Narahari]
Member (Technical)

NEW DELHI

13th November, 2019

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