

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) Nos. 117-118 of 2020

IN THE MATTER OF:

Mr. Suresh Garg

...Appellant

Vs.

Naresh Kumar Sood & Ors.

...Respondents

Present: For Appellant: - Mr. Abhijeet Sinha, Mr. Abhishek Anand and Ms. Honey Satpal, Advocates.

For Respondents:- None.

O R D E R

22.01.2020— Having heard learned counsel for the Appellant and being satisfied with the grounds, delay of 5 days in preferring the appeal is hereby condoned. I.A. No. 302 of 2020 stands disposed of.

The Appellant/ Promoter has challenged the order of liquidation dated 6th December, 2019 and the order dated 23rd December, 2019 passed by the Adjudicating Authority (National Company Law Tribunal), Chandigarh Bench, Chandigarh.

The grievance of the Appellant is that though it filed proposal under Section 12A of the 'I&B Code' prior to the completion of 270 days, merely on the ground that the proposal was not on format, it was not entertained and order of liquidation was passed.

Contd/-.....

Learned counsel for the Appellant submits that the liquidation value of the 'Corporate Debtor'- 'Anandtex International Private Limited' is Rs.29 Crores. There is only one 'Financial Creditor' whose claim is Rs.149 Crores which includes interest. The Appellant has offered Rs.63 Crores which is more than two times of liquidation value. 40% of the amount will be payable to the 'Financial Creditor'. The Appellant has also agreed to pay all the 'Operational Creditors'.

It is submitted that without deliberating on the proposal under Section 12A, the order of liquidation should have been avoided by the Adjudicating Authority.

Let notice be issued on Respondents by speed post to state as to why the 'Committee of Creditors' be not directed to consider the proposal given by the Appellant for order under Section 12A of the 'I&B Code'. Requisite along with process fee, if not filed, be filed by 23rd January, 2020. If the Appellant provides the e-mail address of Respondents, let notice be also issued through e-mail.

Post the case 'for admission (after notice)' on 14th February, 2020.

During the pendency of the appeal, the Liquidator will ensure that the Company remains a going concern. However, he will not sell the

assets of the 'Corporate Debtor' without prior permission of this Appellate Tribunal and follow the decision of this Appellate Tribunal in "**Y. Shivram Prasad Vs. S. Dhanapal & Ors.— Company Appeal (AT) (Insolvency) No. 224 of 2018**".

(Justice S.J. Mukhopadhaya)
Chairperson

(Justice Bansi Lal Bhat)
Member(Judicial)

(Justice Anant Bijay Singh)
Member(Judicial)

Ar/RR