

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 943 of 2019

IN THE MATTER OF:

Shri Swwapnil Bhingardevay

.... Appellant

Vs

Khandoba Prasanna Sakhar
Karkhana Ltd. & Ors.

.... Respondents

Present:

**For Appellant: Mr. K. Datta, Ms. Pallavi Srivastava, Mr.
 Murari Kumar, Advocates.**

For Respondent:

ORDER

12.09.2019 This appeal has been preferred by appellant (Promotor of Khandoba Prasanna Sakhar Karkhana Ltd.) against order dated 1st August, 2019 passed by the Adjudicating Authority, National Company Law Tribunal, Mumbai Bench Mumbai. By the impugned order, the Adjudicating Authority rejected the Miscellaneous Application No. 2104 of 2019 preferred by the appellant (Promotor), approved the 'Resolution Plan' submitted by the 'Resolution Professional', which was approved by the majority decision of the 'Committee of Creditors'.

Having heard learned Counsel for the Appellant and being satisfied with the grounds, the delay of one day in preferring the Appeal is condoned. Interlocutory Application No.2832 of 2019 stands disposed of.

However, so far as Miscellaneous Application No.2104 of 2019 is concerned, we find that the Appellant, Promoter of the 'Corporate Debtor', which is a 'Micro, Small and Medium Enterprises' (MSME), sought permission to file a 'Resolution Plan' after approval of the other 'Resolution Plan'. The Adjudicating Authority having noticed that the 'Resolution Plan' had not been filed within 270 days, that too after approval of the other 'Resolution Plan', which has already been filed before the Adjudicating

Authority, the Miscellaneous Application No.2104/2019 was rejected by the Adjudicating Authority. We find no illegality in the said order. No 'Resolution Plan' could have been filed at the belated stage, i.e., after the expiry of 270 days.

So far as the viability and feasibility of the 'Plan' already approved is concerned, we issue limited notice in this regard.

Notice having already issued against the approved 'Resolution Plan' in Company Appeal (AT) (Insolvency) No.897 of 2019, the Caveator has already appeared in the other Appeal. In the other Appeal, the Caveat was filed by Mr. Anandh K, Advocate for the Respondent. Learned Counsel for the Appellant will serve a copy of paper-book on him.

Let notice be issued on rest of the Respondents by Speed Post. Requisites along with process fee be filed by 13th September, 2019. If the Appellant provides email addresses of the Respondents, let notice be issued through email.

Post the case 'for admission' on **25th September, 2019** along with Company Appeal (AT) (Insolvency) No.897 of 2019.

[Justice S. J. Mukhopadhaya]
Chairperson

[Kanthi Narahari]
Member (Technical)

Ash/GC