

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 959 of 2019**

**IN THE MATTER OF:**

**Mohinish Kumar & Ors.**

**...Appellants**

**Vs.**

**Mohit Chawla  
Resolution Professional of  
Premsons Super Steels Pvt. Ltd. & Ors.**

**...Respondents**

**Present: For Appellants: - Mr. Mansi Arya and Mr. Mansuymmer,  
Advocates and CA Devnidhi Arya.**

**For Respondents: - Mr. Shivam Narang, Advocate.**

**O R D E R**

**18.09.2019—** Having heard learned counsel for the Appellant and learned counsel for the Respondents and being satisfied with the grounds, delay of 14 days in preferring the appeal is hereby condoned. I.A. No. 2880 of 2019 stands disposed of.

Learned counsel for the Appellants submits that the Appellants are having 62% shareholding. A petition for oppression and mismanagement was filed under Sections 397, 398 read with Section 399 of the Companies Act, 1956. In the meantime, the Appellants came to know that the Board of Directors without approval of any shareholder in any EoGM, filed application under Section 10 of the Insolvency and Bankruptcy Code, 2016 with malicious intent for any purpose other than for the

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resolution of insolvency, or liquidation. The main intention was to take away the right of the other shareholders. Therefore, the Appellants want a declaration under Section 65 that application under Section 10 was filed with malicious intent for any purpose other than for the resolution of insolvency or liquidation.

2. It is stated that the Adjudicating Authority has failed to appreciate the aforesaid fact.

3. Mr. Shivam Narang, Advocate appears on behalf of 'Resolution Professional'. No notice need be issued to him. Counsel for the Appellant will serve a copy of the paper book on him.

4. Let notice be issued on 2<sup>nd</sup> and 3<sup>rd</sup> Respondents by speed post. Requisite along with process fee, if not filed, be filed by 19<sup>th</sup> September, 2019. If the Appellants provide the e-mail address of 2<sup>nd</sup> and 3<sup>rd</sup> Respondents, let notice be also issued through e-mail.

Post the appeal 'for admission' on 23<sup>rd</sup> October, 2019 on the top of the list.

Until further orders, the Adjudicating Authority (National Company Law Tribunal) will not pass any order of liquidation. The 'Resolution Professional' will ensure that the company remains going concern and will take assistance of the (suspended) Board of Directors and the officers/ Directors/employees. The person who is authorised to sign the

bank cheques may issue cheques but only after approval of the 'Resolution Professional'. The bank account of the 'Corporate Debtor' be allowed to be operated for day-to-day functioning of the company such as for payment of current bills of the suppliers, salaries and wages of the employees'/workmen electricity bills etc.

(Justice S.J. Mukhopadhaya)  
Chairperson

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

(Kanthi Narahari)  
Member(Technical)

Ar/sk