

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Restoration Application No.01 of 2021
in
Company Appeal (AT) (Ins) No.235 of 2021

IN THE MATTER OF:

Abhishek Singh,

...Appellant.

Versus

Huhtamaki PPL Ltd. and Ors.

...Respondents

AND

IN THE MATTER OF:

Abhishek Singh,
S/o Shri Dharendra Singh,
R/o 13, Sangeet Society,
Vasna Road,
Vadodara- 390007

...Appellant.

Versus

1. Huhtamaki PPL Ltd.,
12A-06, B- Wing, 13th Floor,
Parinee Crescenzo,
C-38/39, G-Block,
Bandra Kurla Complex,
Bandra (E),
Mumbai – 400051
...Respondent No. 1
2. M/s. Manpasand
Beverages Ltd.
1768 & 1774 Patki-1,
Village Manjusar,
Tai. Savli,
Vadodra – 391775
...Respondent No. 2
3. Interim Resolution Professional of
M/s. Manpasand Beverages Ltd.,
Through Mr. Arpan Maheshkumar Shah
301, Shoppers Plaza-4,
Opp. BSNL, C.G. Road,
Navrangpura, Ahmadabad,
Gujarat – 380009.
...Respondent No. 3.

For Appellant: **Shri Vikas Singh, Senior Advocate with Shri Swaroop George and Shri Himanshu Satija, Advocates**

For Respondents: **Shri Salil M. Thakore, Advocate (for IRP – R3)
PCS Hitesh Buch (R-1)**

ORDER
(Virtual Mode)

05.04.2021 Heard Senior Advocate Shri Vikas Singh for the Appellant, on mentioning. Heard Advocate Shri Salil Thakore for IRP.

The learned Senior Counsel submits that e-filing has been done of the Restoration Application, and his staff is outside with hard copy.

It is stated that in spite of directions of this Court dated 26th March, 2021, the Adjudicating Authority (National Company Law Tribunal, Ahmedabad Bench, Ahmedabad) has not disposed the Application under Section 12A of Insolvency and Bankruptcy Code, 2016 (IBC – in short) and is going into technicalities and that even Contempt Application are being entertained. According to the learned Senior Counsel, frivolous Applications are being entertained and proceedings before Adjudicating Authority be stayed.

The learned Counsel for IRP appears and submits that the Application with regard to Section 12A of IBC is already before the Adjudicating Authority and listed today.

Our Order dated 26th March, 2021 in para – 7(A) and (B) read as under:-

“7(A). For reasons stated above, the Appeal is permitted to be withdrawn with liberty to seek restoration of the

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Appeal in case at any future time the effort to settle in terms of Section 12A of IBC runs into difficulty and does not happen.

7(B). Till the Adjudicating Authority decides Application under Section 12A of IBC which is stated to have already been filed, CoC may not be constituted.”

Considering the above Order, we find that the Application being tendered is premature and at present, it cannot be said that effort to settle in terms of Section 12A of IBC has not happened. The question of restoration cannot be looked into, at this stage.

For such reasons, the Registry to number the Restoration Application and the same shall then stand disposed as premature.

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

[Dr. Alok Srivastava]
Member (Technical)

rs/md