

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 122 of 2020

In the matter of:

G.A. Abhimanyu Raja

....Appellant

Vs.

Syndicate Bank & Anr.

....Respondents

Present:

Appellant: Mr. Manoj Menon, Ms. Rohini Musa and Mr. D.R. Raghunath, Advocates.

Respondents: Mr. T. Ravi Chandran, Mr. K.V. Balakrishnan and Mr. Rahul Kumar Sharma, Advocates for R-1.

ORDER

05.02.2020: Learned counsel for the Appellant submits that the appeal has been filed by Mr. G. A. Abhimanyu Raja, who was Managing Director of the suspended Board of Directors and he has filed the appeal in that capacity and not in the capacity of a Promotor. Therefore, we direct deletion of the expression 'Promoter' from the cause title of appeal. However, the Appellant not having arrayed Corporate Debtor as Party Respondent, he is directed to substitute Corporate Debtor as Party Respondent No.2 through Interim Resolution Professional (IRP) in place of Resolution Professional. Necessary corrections in the cause title and at all relevant places in the memo of appeal be made during the course of the day.

Issue raised in this Appeal is that claim of the Respondent (Financial Creditor) was barred by limitation, in as much as, exclusion in terms of Section 42 of Limitation Act was not attracted.

Let notice be issued on Respondents including substituted respondent no. 2 by Speed Post. Requisites alongwith process fee, if not already filed, be

filed by tomorrow. If the Appellant provides email address of the Respondents, let notice be issued through email.

Post the matter 'for admission (after notice)' on **28th February, 2020**.

In the meantime, the Interim Resolution Professional will ensure that the company remains going concern and will take assistance of the (suspended) Board of Directors. The persons who are working will perform their duties including the paid Directors. The person who is authorised to sign the bank cheques may sign cheques only after authorisation of the 'Interim Resolution Professional' with counter signature of the 'Interim Resolution Professional' at the back side of the cheques. In such case, the Bank shall release the payment. The Interim Resolution Professional will place this order before the Banks, in which accounts of Corporate Debtor are maintained. The Bank Account(s) 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 Bansi Lal Bhat]
Member (Judicial)

[V. P. Singh]
Member (Technical)

[Shreesha Merla]
Member (Technical)

am/ha/nn