

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

**Company Appeal (AT) (Insolvency) No.143 of 2023
& I.A. No. 562 of 2023**

IN THE MATTER OF:

**D.P. Industries
Through its sole proprietor Ravinder Singh** **...Appellant**

Versus

**Deepak Thukral
Resolution Professional & Anr.** **...Respondents**

With

**Company Appeal (AT) (Insolvency) No.144 of 2023
& I.A. No. 566 of 2023**

IN THE MATTER OF:

**Bharat Industries
Through its sole proprietor Bharat Bhushan** **...Appellant**

Versus

**Deepak Thukral
Resolution Professional & Anr.** **...Respondents**

With

**Company Appeal (AT) (Insolvency) No.145 of 2023
& I.A. No. 568 of 2023**

IN THE MATTER OF:

**Sagar Auto Industries
Through its sole proprietor Shankar Dutt** **...Appellant**

Versus

**Deepak Thukral
Resolution Professional & Anr.** **...Respondents**

With

Cont'd.../

Company Appeal (AT) (Insolvency) No.146 of 2023
& I.A. No. 572 of 2023

IN THE MATTER OF:

Deep Precision Industries
Through its sole proprietor Virender Singh **...Appellant**

Versus

Deepak Thukral
Resolution Professional & Anr. **...Respondents**

With

Company Appeal (AT) (Insolvency) No.147 of 2023
& I.A. No. 574 of 2023

IN THE MATTER OF:

Taif Industries
Through its Sole proprietor Dharmender **...Appellant**

Versus

Deepak Thukral
Resolution Professional & Anr. **...Respondents**

With

Company Appeal (AT) (Insolvency) No.149 of 2023
& I.A. No. 577 of 2023

IN THE MATTER OF:

Mahalaxmi Industries
Through its Sole proprietor Parveen Jha **...Appellant**

Versus

Deepak Thukral
Resolution Professional & Anr. **...Respondents**

With

Company Appeal (AT) (Insolvency) No.150 of 2023
& I.A. No. 579 of 2023

IN THE MATTER OF:

Mahalaxmi Fabricators
Through its sole proprietor Deepak Jha **...Appellant**

Versus

Deepak Thukral
Resolution Professional & Anr. **...Respondents**

Present:

For Appellant: Mr. Swarenendu Chatterjee, Mr. Deepakshi Garg and Ms. Megha Saha, Advocates.

For Respondents: Mr. Vishal Bhatnagar, Ms. Lta Walia and Mr. Karan Arora, Advocates for R-1 (RP).

O R D E R

22.02.2023: Applications has been filed by the Appellants praying for condonation of delay of 15 days in filing the Appeals. Counsel for the Appellants submits that the Appellants are Operational Creditors and there was certain holidays due to which Appeal could not be prepared and further due to bad health of the Appellant delay was caused in preparing the Appeal. Cause shown sufficient. Delay in filing the Appeal is condoned.

2. These Appeals have been filed against the same order dated 01.12.2022 passed by the Adjudicating Authority (National Company Law Tribunal), Chandigarh Bench, Chandigarh in different CAs in C.P. (IB) No. 155/Chd/Hry/2018. We may notice the facts in Company Appeal (AT) (Ins.) No. 143 of 2023 for deciding all these appeals.

3. Company Appeal (AT) (Ins.) No. 143 of 2023 has been filed against order dated 01.12.2022 passed by the Adjudicating Authority in I.A. No.352/2019. The I.A. was filed by the Appellant which was an Operational Creditor in the insolvency proceeding. In the I.A. prayers were made including the prayer for directing the Respondent to provide copy of the Resolution Plan submitted before the Tribunal for approval to enable the Appellant to make submission/objection. The Adjudicating Authority by the impugned order did not accept the prayer of the Appellant to provide the Resolution Plan. However, ultimately, the Adjudicating Authority issued following direction in Para 115 of the order:

“115. Considering the facts and the legal issues discussed in the foregoing paragraphs, we hold that wherever directed, the aforementioned claims of various stakeholders are to be considered by the Resolution Professional under the relevant provisions of the IBC & in accordance with law and the same should be placed before CoC for approval. We, therefore, refer the resolution plan back for approval by the COC with a direction to consider the claims within a period of 30 days as per the observations/directions in the foregoing paragraphs.”

4. Under the order of the Adjudicating Authority, Resolution Plan has been sent back for approval by the CoC.

5. Learned counsel for the Appellant submits that the Appellant, an Operational Creditor was entitled for copy of the resolution plan and relied on

the judgment of this Tribunal in **“Company Appeal (AT) (Ins.) No. 643 of 2021, Association of Aggrieved Workmen of Jet Airways (India) Ltd. vs. Jet Airways (India) Ltd. & Ors.”**.

6. The judgment of this Tribunal in Jet Airways which has been relied by the Appellant was a case where Resolution Plan was approved by the Adjudicating Authority and Appeal was filed challenging and an I.A. No. 1700 of 2021 was filed seeing direction to provide copy of the Resolution Plan, where this Tribunal has directed that part of the Resolution Plan which deals with the claim of workmen and employees shall be provided to the Appellant by Successful Resolution Applicant. This Tribunal in the said judgment dated 20.01.2022 has also in Paras 21 and 22 made following observations:

“21. Sub-rule (1) of Rule 114 provides that parties to any case or their authorised representative may be allowed to inspect the record of the case. Sub-rule (2) of Rule 114 provides that a person, who is not a party to the proceeding, may also be allowed to inspect the proceeding after obtaining the permission of Registrar in writing. When inspection is given to the parties or any person, who is not a party with the permission of Registrar to inspect the record, the record to be inspected shall obviously contains the Resolution Plan submitted by Resolution Professional to the Adjudicating Authority. When Resolution Plan is submitted to the Adjudicating Authority with an Application to accept the Plan, the Application as well as Plan is on the record of the case or proceeding and

then right to inspection is granted statutorily, we do not accept the submission of learned Counsel for the Respondents that Resolution Plan still remains confidential documents after it is made part of the record or proceeding of the Adjudicating Authority.

22. When inspection is permitted of record of the Adjudicating Authority, obviously inspection can very well be made of the Resolution Plan, which is part of the proceedings before the Adjudicating Authority. Section 117 of the NCLT Rules, 2016 deals with 'Mode of inspection'. Sub-rule (3) of Rule 117 provides that note of any record can also be taken in pencil by a person inspecting the record."

7. The ultimate direction issued by this Tribunal was in Paras 28 and 29, which are to the following effect:

"28. When the right to Appeal on the ground enumerated in sub-section (3) of Section 61 is provided, unless the Appellant is aware of the contents of the Resolution Plan, how he will be able to satisfy the Appellate Court that the grounds enumerated in sub-section (3) of Section 61 are made out in reference to approval of the Resolution Plan. The provision of Section 61, sub-section (3) reaffirms our view that after approval of the Resolution Plan, Resolution Plan does not remain a confidential document, so as to deny its perusal to a claimant, who is aggrieved by the Plan and has come up on the Appeal. We, thus, are of the view that Resolution Plan after its approval by the Adjudicating Authority is no

more a confidential document, so as to deny access to even a claimant. It is true that the Resolution Plan even though it is not a confidential document after its approval, cannot be made available to each and to anyone who has no genuine claim or interest in the process. On various grounds the access to Resolution Plan even if it is not a confidential document, after approval can be denied in proper and appropriate cases. 29. Now coming back to the facts of the present case, as submitted by the learned Counsel for the Respondent No.4 that there are more than 20,000 Operational Creditors apart from Financial Creditors and other stakeholders. We have noticed above that before the Adjudicating Authority, Applications were filed by several Applicants including National Aviators' Guild, Jet Aircraft Maintenance Engineers Welfare Association, Bhartiya Kamgar Sena, Jet Airways Cabin Crew Association etc. before the Adjudicating Authority praying for copy of Resolution Plan, which Application was rejected by detailed order dated 22nd February, 2021. We, thus, are not inclined to issue a direction to provide entire Resolution Plan to the Appellant herein. We however, are fully satisfied that the Appellant is entitled for the relevant part of the Resolution Plan relating to the claim of the workmen and employees. We, thus, direct that part of Resolution Plan which deals with claim of workmen and employees should be provided to the Appellant by Successful Resolution Applicant – Respondent No.4 within a period of three weeks from

today. The prayer made by Appellant/ Applicant for the copy of Resolution Plan is decided accordingly.”

8. We, thus, are of the view that as per what has been held in Para 22 of the above judgment, Appellants are entitled for inspection of the records of the Adjudicating Authority as per the NCLT Rules, 2016. We, thus, do not see any reason to interfere with the order impugned. However, liberty is given to the Appellants to file application before the Adjudicating Authority for inspection of the records of the Adjudicating Authority in accordance with law. All the Appeals are disposed of accordingly.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

Archana/nn