

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL, PRINCIPAL BENCH,**  
**NEW DELHI**  
**Company Appeal (AT) (Ins.) No. 585 of 2022**

**IN THE MATTER OF:**

**Sidhartha Global Pvt. Ltd.**

**....Appellant**

**Vs.**

**Amira Pure Foods Pvt. Ltd.**

**....Respondent**

**Present:**

**For Appellant: Mr. Shiv Mangal Sharma, Mr. Saurabh Rajpal, Mr. Abhishek Sharma, Advocates**

**For Respondent: Ms. Swaralipi Deb Roy, Mr. R. K. Gupta, Advocates**

**ORDER**

**10.07.2023:** Heard Learned Counsel for the Appellant. The delay in filing the appeal is condoned.

This appeal has been filed against the order passed by the Adjudicating dated 06.10.2021 by which order CA No. 906/2019 filed by the Appellant has been dismissed.

3. The Adjudicating Authority noticed that no one appears to press the application and the subject premises was handed over to the Applicant on 17.11.2020. It was also observed by the Adjudicating Authority that the agreement was terminated prior to commencement of CIRP. Adjudicating Authority observed that Adjudicating Authority has gone through the prayers and in the given facts, the prayers cannot be acceded to and the application is dismissed.

4. Learned Counsel for the Appellant challenging the order submits that it is true that the Counsel for the Applicant was not present before the Adjudicating Authority but the rejection of the application was not required. It is submitted that when it is admitted that premises have been handed over to the Applicant on 17.11.2020 and CIRP commenced on 11.12.2018, the Appellant was entitled for its rent.

5. Learned Counsel for the Appellant further submits that the liquidator has admitted the claim of the Appellant to the extent of Rs. 1,06,59,332/- in wake of admission of part claim, rejection of application was not required.
6. Learned Counsel appearing for the liquidator submits that the Applicant was not entitled to the relief as prayed in the application.
7. We have considered the submission of the Learned Counsel for the parties and peruse the record.
8. The prayers which were made in the application filed by the Appellant are to the following effect: -

*“(a) Direct the Resolution Profession of the Corporate Debtor to immediately pay monthly damages / compensation / Occupation charges of Rupees 24,63,237 – (Rupees Twenty Four Lakhs Sixty Three Thousand Two Hundred and Thirty Seven only) in terms of clause 29(f) of the least Lease Deed, from the date of commencement of Insolvency Resolution Process i.e. 11.12.2018 till July, 2019, total of which comes to Rupees 1,97,05,896/- (Rupees One Crore Ninety Seven Lacs Five Thousand Eight Hundred and Ninety Six only) and further till the completion of entire Corporate Insolvency Resolution Process @ Rupees 24,63,237/- (Rupees Twenty Four Lakhs Sixty Three Thousand Two Hundred and Thirty Seven only) per month; and/or*

*(b) Include the aforesaid sum in the Insolvency Resolution Process Costs in terms of Rule 31(b) of the Insolvency and Bankruptcy*

*Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.*

*(c) pass such other order/directions as this Hon'ble Bench may deem fit and proper in the facts and circumstances of the case."*

9. Learned Counsel for the Appellant has also pointed out to the letter of the liquidator by which liquidator has communicated on 14.05.2020 that the liquidator has admitted the claim to the extent of Rs. 1,06,59,332/-. The Adjudicating Authority's only observations made while rejecting the application-

‘we have gone through the prayers, in the given facts and circumstances of the case the prayers cannot be acceded to and, therefore, the application is dismissed.’

10. We are of the view that when the Adjudicating Authority proceeded to decide the application on merits, the application ought to have been considered on merits considering the claim of the Appellant and other materials on record. Rejection of the application by the above observations cannot be sustained.

11. The orders passed by the Adjudicating Authority dated 06.10.2021 deserves to be set aside and CA No. 906/2019 is revived before the Adjudicating Authority to be considered afresh. We make it clear that we are not making any observations on merits of the application and it is for the Adjudicating Authority to consider the application afresh and pass appropriate orders. ***The appeal is disposed of accordingly.***

**[Justice Ashok Bhushan]  
Chairperson**

**[Mr. Barun Mitra]  
Member (Technical)**

ss/nn