

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

**Company Appeal (AT) (Insolvency) No. 128 of 2023**

**&**

**I.A. No. 507, 511 of 2023**

**IN THE MATTER OF:**

**Haravtar Singh Arora,  
Erstwhile promoter of James Hotel**

**...Appellant**

**Versus**

**Navneet Gupta,  
Liquidator of James Hotel & Anr.**

**...Respondent**

**Present:**

**For Appellant:** Mr. Abhijeet Sinha, Mr. Kumar Anurag Singh, Mr. Zain A Khan, Advocates

**For Respondent:** Mr. Gaurav Mitra, Mr. NPS Chawla, Mr. Ishan Roy Choudhury, Advocates for Successful Bidder.  
Mr. Manuj Nagarth, Mr. S. Vinod, Advocate for Mr. Navneet Gupta, Official Liquidator  
Mr. Surekh Kant Baxy, Mr. Sujoy Datta, Ms. Sejal Sethi, Advocates for Successful Bidder.

**ORDER**

**01.03.2023:** Heard Learned Counsel for the Appellant.

2. This Appeal has been filed against the Order dated 04.11.2022 passed by the National Company Law Tribunal, Chandigarh Bench, Chandigarh (hereinafter referred to as "The Adjudicating Authority") by which CA No. 15 of 2020 and I.A. No. 553 of 2020 has been decided. The Appellant-Suspended Director of the Corporate Debtor has come up in this Appeal challenging the Order. When the Auction Notice was issued by the Liquidator for auction of the

Corporate Debtor as a going concern, CA No. 15 of 2020 was filed challenging the Auction Notice and subsequent to the auction held on 03.02.2023, I.A. No. 553 of 2020 has been filed, both the Applications have been rejected by the impugned Order.

3. Mr. Abhijeet Sinha, Learned Counsel for the Appellant submits that the property was a leased property from the Chandigarh Administration and there was no permission taken from the Chandigarh Administration for transfer of the property. He further submits that under Regulation 32-A (4), if the sale of the corporate debtor is not done within 90 days from the liquidation commencement date, Liquidator was to proceed to sell the assets under Clause 'a' to 'd' of Regulation 32-A. Learned Counsel for the Appellant has also referred to Letter dated 06.05.2019 of the Chandigarh Administration which has been referred to by the Adjudicating Authority.

4. We have considered the submissions of Learned Counsel for the Appellant and have perused the record.

5. There is no dispute between the parties that there was a lease by the Chandigarh Administration and the auction of the Corporate Debtor was proposed as going concern. The letter dated 06<sup>th</sup> May, 2019 referred to by the Learned Counsel for the Appellant was issued by the Chandigarh Administration where mention was made regarding the amount chargeable on account of transfer fees.

6. Learned Counsel – Mr. Gaurav Mitra for the Respondent submits that present is a case where lease deed continues in the name of Corporate Debtor hence what is sold is the shares of the corporate debtor.

7. Be that as it may, we do not find any error in the carrying out auction of the corporate debtor as going concern.

8. Further submission is that under Regulation 32A sub-clause 4, auction did not take place within 90 days hence assets ought to have been sold under Clause 'a' to 'd'. It is not denied that auction sale notice was issued initially prior to the insertion of provision of Regulation 32A, hence we are of the that in the auction, regulation 32A sub-clause (4) cannot be pressed in service.

9. We thus are of the view that no ground has been made to interfere with the Impugned Order. The appeal is dismissed.

**[Justice Ashok Bhushan]**  
**Chairperson**

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

Basant/nn