

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH: NEW DELHI
I.A No. 959 of 2021
in
Company Appeal (AT) (Insolvency) No. 832 of 2020**

In the matter of:

Satya Narayan Jhunjhunwala

....Appellants

Vs.

Supriyo Kumar Chaudhuri & Ors.

...Respondents

Present

For Appellant: Mr. Mohit Chaudhary, Ms. Garima Sharma, Mr. Malak Bhatt, Ms. Neeha Nagpal and Mr. Udbhav Nanda, Advocates.

For Respondent: Mr. Ramji Srinivasan, Sr. Advocate with Mr. Indranil Ghosh, Mr. Orijit Chatterjee, Ms. Swati Dalmia, Mr. Akash Yadav and Mr. Plazer Mokhtan, Advocates for R-1.

Mr. Aman Singhania, Mr. Bishwajit Dubey, Ms. Ritika Sinha and Mr. Madhav Kanoria, Advocates for R-2.

With

I.A No. 960 of 2021

in

Company Appeal (AT) (Insolvency) No. 846 of 2020

In the matter of:

Ramesh Chander Garg & Ors.

....Appellants

Vs.

Supriyo Kumar Chaudhuri & Ors.

...Respondents

Present**For Appellants: Mr. Abhijeet Sinha and Mr. Gautam Singh, Advocates.****For Respondents: Mr. Ramji Srinivasan, Sr. Advocate with Mr. Indranil Ghosh, Mr. Orijit Chatterjee, Ms. Swati Dalmia, Mr. Akash Yadav and Mr. Plazer Mokhtan, Advocates for R-1.****Mr. Aman Singhania, Mr. Madhav Kanoria, Mr. Bishwajit Dubey, Ms. Ritika Sinha and Advocates for R-2.****ORDER****(10.06.2021)****(Kanthi Narahari, Member (T))**

The Applications being I.A 959 of 2021 and 960 of 2021 are filed by the first Respondent praying the Tribunal to grant the following reliefs viz:

- (a) Grant early date of hearing of the Appeal to enable the learned Senior Counsel for the Respondent No. 1 to advance remaining arguments and
- (b) Grant Permission for immediate sale of inventory of the Corporate Debtor/ JVL Agro Industries Ltd. More fully described in paragraph 'z' by way of e- auction and
- (c) To proceed with the e- auction of the assets of the Corporate Debtor/ JVL Agro Industries Ltd. As per the provisions of the Insolvency and Bankruptcy code, 2016 and the regulations framed there under and
- (d) Such further or other orders as this Hon'ble Appellate Tribunal may deem fit and proper.

2. Shri Ramji Srinivasan, Learned Senior Counsel appearing for the Applicant/R-1 submitted that during the course of arguments before this Bench the Appellant put forth submissions to the effect that the Applicant/R-1 intends to sell the assets of the Corporate Debtor through e- auction scheduled to be held on 04.03.2021 and 05.03.2021 and on this ground sought an ad-interim stay. However, the same was opposed by him, whereupon it fell from the Bench that in case the assets of the Corporate Debtor were sold during the pendency of the Appeal then the Appeal would be rendered in fructuous. To address such concern raised by the Hon'ble Bench, he informed the Bench that he would advise his client namely the Applicant/R-1 to defer the e- auction.

3. The Learned Senior Counsel for the Applicant submitted that in view of the advise and considering that the Appeal had reached an advance stage of hearing the e- auction process scheduled on 04.03.2021 and 05.03.2021 cancelled. The Appeal came up for hearing on 04.03.2021 and the Counsel appearing for the Appellant argued and concluded the arguments. Due to paucity of time the Learned Senior Counsel appearing for the Respondent was unable to begin his arguments. The matter was fixed on 12.04.2021 however, due to unavailability of the Learned Senior Counsel for the Applicant the Appeal was adjourned to 27.04.2021. Due to rise in second wave of Covid -19 pandemic the said Appeal was not taken up for hearing. By Circular of this Hon'ble Appellate Tribunal the Appeal has been adjourned/re-scheduled to 18.06.2021.

4. The Learned Senior Counsel further submitted that there are certain expired finished products, i.e. Olein and Refined Palm Oil, forming part of the inventory of the Corporate Debtor. The said inventory is not fit for human consumption, however, it is of use for other edible oil manufacturers for the purpose of reprocessing along with the crude oil and industrial users such as soap manufacturers. Around 600 tonnes (approx) of Olein and 100 tonnes(approx) of Refined Palm oil is lying in the storage tanks at the Corporate Debtors plant premises situated at Haldia, West Bengal.

5. The Learned Senior Counsel for the Applicant/ R-1 submitted that the aforesaid inventory is deteriorating and in the interest of the stakeholders it is prudent to sell the same at the earliest. The Price of Olein and Refined Palm oil have increased significantly in the last few weeks and if the same is sold forth with, it will be beneficial to the stakeholders. The Price of such inventory is highly volatile, it can go down very quickly. In view of the reasons the Learned Senior Counsel prayed this Bench to permit the Applicant/R-1 to sell the aforesaid inventory i.e. 600 tonnes of expired stock of Olein and 100 tonnes of expired stock of Refined Palm Oil lying in the storage tanks at the Corporate Debtors plant premises situated at Haldia, West Bengal.

6. The Learned Counsel appearing for the Respondent/Appellant filed Reply- Affidavit in I.A. No. 960 of 2021 and submitted that the reliefs sought in the application with regard to fixing/listing of the Appeal for hearing, they do not have any objection and the Appeal is already listed for hearing on

18.06.2021. With regard to sale of inventory as described in paragraph 'z' by way of e-auction he submitted that in view of the date fixed for hearing the relief i.e. sale of inventory as described in paragraph 'z' of the application may not be allowed.

7. The Learned Counsel submitted that the Applicant/R-1 failed to tell the date when the said finished products have expired and why the Applicant allowed the said stock to be expired and why the Applicant did not made efforts to sell the finished stocks prior to filing of the present Application keeping in view that the Corporate Debtor was to be kept as a going concern as per the order dated 02.11.2020 of this Hon'ble Tribunal. Further, the Applicant failed to mention the price of the Olein and Refined Palm oil. The Learned Counsel for the Appellant submitted that the Applicant/R-1 had not given any details of price with regard to inventory as mentioned in paragraph 'z' of the application, therefore, it cannot be presumed that the prices have increased significantly.

8. Heard the Learned Counsel appearing for the respective parties. It is an admitted fact that the inventory as mentioned in paragraph 'z' i.e. Olein and Refined Palm oil is perishable goods. There is no denial that the stock of Olein and Refined Palm oil expired and cannot fit for human consumption.

9. We are of the view that the said inventory can be used for other purpose. If the said inventory/stock is kept for long time the same may not be useful for other purpose also. In view of the reason that the inventory/goods are

perishable in nature we are of the view that the said inventory be permitted to sell by e-auction keeping in view of the interest of all the Stakeholders. Without going into other technicalities at this stage we hereby pass the following Order:

(a) We hereby allow the Applicant/Liquidator to sell the inventory i.e. 600 tonnes (approx) of expired stock of Olein and 100 tonnes (approx) of expired stock of Refined Palm oil by way of e- auction in a transparent manner to the highest bidder.

(b) The sale proceeds shall be kept in a separate interest bearing bank account.

10. With the aforesaid Order both the applications, i.e. I.A 959 of 2021 and 960 of 2021 stand disposed of. No order as to costs.

**[Justice Jarat Kumar Jain]
Member (Judicial)**

**[Kanthi Narahari]
Member (Technical)**

sr/md