

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
I.A. No. 1093 of 2021

in
Company Appeal (AT) (Ins.) No. 265 of 2020

IN THE MATTER OF:

Ankit International (Sole Proprietorship of Arun Jain)Appellant

Vs.

Unitech Machines Ltd. Through ResolutionRespondents
Professional VivekRaheja& Anr.

Present:

For Appellant: Mr. Krishnendu Datta, Senior Advocate with Mr. Rahul Gupta, Advocate.

For Respondents: Mr. VivekRaheja (IRP)
Mr. K.D Sharma, RP
Mr. Alok Kumar, Advocate for R-2.

O R D E R
(Virtual Mode)

02.07.2021: Heard Ld. Sr. Counsel for the Appellant on I.A. No. 1093 of 2021 an Application for clarification of the order dated 03.06.2021. He submits that for exclusion of time had been expressly prayed for I.A. No. 2965 of 2021 in this regard the submission has also been mentioned in the earlier order passed by this Appellate Tribunal on 03.06.2021. However, inadvertently, no order has been passed for exclusion of the period spend in the litigation i.e. from 29.11.2019 to 03.06.2021, unless the period of litigation excluded from the CIRP period the CoC cannot consider the revised Resolution plan of the Appellant. Therefore, they have filed this application for clarification of the earlier order.

Ld. Counsel appearing on behalf of the Respondents are in agreement with the submissions made by the Ld. Sr. Counsel for the Appellant.

In this matter we have passed the order on 03.06.2021 which is as under:-

“03.06.2021: Heard Learned Counsel for the parties on Appeal as well as on I.A. No. 2965 of 2021. Learned Counsel for the Respondent No. 2 submits that they have no objection if the impugned order may be set aside and the CoC may be directed to consider the revised Resolution Plan of the Appellant. However, he submits that the prescribed period of limitation for the CIRP is over. Ld. Sr. Counsel for the Appellant submits that it will be appropriate to set aside the impugned order, however, the contentions raised in this Appeal may be left open. He also submits that the period of litigation since 29.11.2019 to till today i.e. 03.06.2021 is excluded even though in the light of the second proviso to Section 12(3) of the IBC, 60 days period is remain for completing CIRP. Considering the submissions of Ld. Counsel for the parties, the impugned order dated 29.01.2020 is hereby set aside. we direct that the Appellant’s revised resolution plan be put up before the CoC for consideration. In peculiar facts and circumstances of this case, the contentions raised by the parties in this Appeal are left open. The Appeal is disposed of as aforesaid, no costs”

We have considered the submissions and it is hereby clarified that the period i.e. 29.11.2019 to 03.06.2021 spend in the litigation shall be excluded in calculating the CIRP period.

With this clarification the Application I.A. No. 1093 of 2021 is disposed of.

[Justice Jarat Kumar Jain]
Member (Judicial)

[Dr. Ashok Kumar Mishra]
Member (Technical)

sc/md