

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

**Company Appeal (AT) (Insolvency) No. 466 of 2022**

**IN THE MATTER OF:**

**Khayerbari Tea Company Ltd. (KTCL) ...Appellant**

**Versus**

**Shyamal Kumar Bhattacharya  
Resolution Professional  
of Kumlai Tea and Industries Ltd. ...Respondent**

**Present:**

**For Appellant: Mr. Jishnu Chowdhury and Ms. Rashmi Bothra,  
Advocates.**

**For Respondent: Mr. Vikas Singh, Ms. Sudha Singh, Ms. Nitu  
Singha and Mr. Shaunak Mitra, Advocates.**

**Mr. Shyamal Kr. Bhattacharya, RP in person.**

**With**

**Company Appeal (AT) (Insolvency) No. 467 of 2022**

**IN THE MATTER OF:**

**Santiprova Agro Products Pvt. Ltd. ...Appellant**

**Versus**

**Shyamal Kumar Bhattacharjee  
Resolution Professional  
of Kumlai Tea and Industries Ltd. & Anr. ...Respondents**

**Present:**

**For Appellant: Mr. Navneet Mishra, Mr. Anirban Ray, Mr. Ankan  
Ray and Mr. Rahul Singh, Advocates.**

**For Respondents: Mr. Vikas Singh, Ms. Sudha Singh, Ms. Nitu  
Singha and Mr. Shaunak Mitra, Advocates for R-1  
(RP).**

**Mr. Partha Sil, Mr. Tavish B Prasad, Advocates for  
R-2 (CoC).**

**Dr. Sumana Raychaudhuri and Ms. Nisha  
Sachdeva, Advocates for Terai Tea Co.**

**ORDER**  
**(Virtual Mode)**

**20.07.2022:** Company Appeal (AT) (Insolvency) No. 466 of 2022 has been filed by the Appellant against order dated 22.03.2022 by which order the Adjudicating Authority (National Company Law Tribunal), Kolkata Bench, Kolkata has rejected the application filed by the Appellant seeking direction to the Resolution Professional to consider and accept the Expression of Interest (EOI) dated 11.02.2022. The Adjudicating Authority has rejected the application observing that Applicant has sent EOI by letter dated 11.02.2022, which was much after expiry of the last date of submission, hence, time for accepting the same has expired and Application was rejected.

2. Similar are the facts in the Company Appeal (AT) (Insolvency) No. 467 of 2022, where the Appellant has filed the Appeal challenging the order dated 22.03.2022 by which I.A. filed by the Appellant seeking direction to the Resolution Professional to consider and accept the EOI dated 17.02.2022 was not acceded to by a similar order passed by the Adjudicating Authority.

3. Learned counsel for the Resolution Professional submits that during the pendency of the Appeal the CIRP period has come to an end and Resolution Professional has filed an Application before the Adjudicating Authority seeking extension of time to enable the Resolution Professional to invite fresh Expression of Interest. It is also submitted that the only Resolution Plan which was received has also been rejected by the CoC, hence, no plan has been approved by the CoC.

4. In view of the subsequent development, we are of the view that no purpose will be served in considering the present Appeals. The applications of the Appellants were rejected for permitting consideration of their EOI to be taken by the Resolution Professional. Now, the consequent action can only be taken in the event the Adjudicating Authority permits extension of CIRP period, both the Appellants shall have opportunity to participate in the process. With these observations both the Appeals are dismissed.

5. In view of the order which we have passed in these Appeals, we set aside the cost of Rs.25000 imposed by the impugned order.

**[Justice Ashok Bhushan]  
Chairperson**

**[Justice M. Satyanarayana Murthy]  
Member (Judicial)**

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

*Archana/nn*