

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL,  
PRINCIPAL BENCH, NEW DELHI  
Comp. App. (AT) (Ins.) No. 715 of 2022**

**In the matter of:**

**Sukhinder Singh & Anr.**

**....Appellants**

**Vs.**

**Mr. Sumat Kumar Gupta, Resolution Professional of  
International Mega Food Park Ltd. & Ors.**

**...Respondents**

**For Appellants: Mr. Raktim Gogoi, Mr. Kartikeya Singh, Mr. Manuj  
Nagrath, Mr. Shivam Malhotra, Advocates.**

**For Respondents: Mr. Rajansh Thukral, Ms. Surekha Thukral,  
Advocates for R1.**

**ORDER**

**(Through Virtual Mode)**

**05.07.2022:** Heard Learned Counsel for the Appellant.

2. This Appeal has been filed against the order dated 30.05.2022 passed by the Adjudicating Authority (National Company Law Tribunal), Chandigarh Bench, Chandigarh by which order the Adjudicating Authority has decided IA No. 716/2020. The Applicant in the Application has sought direction the Respondent to deposit the performance guarantee immediately and in case of failure, to forfeit the deposit of Rs.10 lakhs given as EMD as well as partial Performance Security of Rs.1 Crore. Further direction was sought that in case the Respondent agrees to take over the Corporate Debtor as per the Resolution Plan already approved by Committee of Creditors (CoC), he may be asked to match the resolution bid of Rs. 75.50 Crores. Further direction that in case of

failure of the Respondent/ Resolution Applicant to comply with the condition of the Performance Guarantee, to permit the withdrawal of IA 615 & 616/2020 regarding approval of Resolution Plan and further to direct the CoC to negotiate with the H-2 bidder to explore the possibility of resolution in a time-bound manner.

3. The Adjudicating Authority after hearing the parties disposed the Application. By the order impugned one month time was allowed to H-1 bidder to comply the Resolution Plan failing which it was directed that H-2 bid should be considered by the CoC in case there is failure on the part of the Respondent No.3- H-1 bidder.

4. The Appeal has been filed by the Suspended Director of the Corporate Debtor. It is submitted that repeated opportunities have been granted to the H-1 bidder to comply however, till date the H-1 bidder has not complied the terms and conditions of the Resolution Plan.

5. We have considered the submissions of the Learned Counsel for the Appellant and perused the record. The Adjudicating Authority itself has limited indulgence to the H-1 providing that in event within a period of one month the compliance is not made, the H-2 bid should be considered by the CoC in event of failure on the part of the H-1. Application I.A 716/2020 was decided by directions as contained in the order. We are of the view that the order passed by the Adjudicating Authority giving one month time as a last opportunity is just and reasonable. It goes without saying that endeavors are always to be taken to ensure the resolution of the Corporate Debtor and in

event within a period of one month the compliance is made towards resolution, no exception can be taken. The consequence of non-compliance has already been provided in the order enabling the CoC to negotiate with H-2.

6. Learned Counsel appearing for H-1 submits that the compliance has already been made which statement has been disputed by the Counsel for the Appellant.

7. We, in this Appeal, are not concerned with the question as to whether the compliance of the order dated 30.05.2022 has been taken or not. It is for the Adjudicating Authority, if such issue arises, to consider and take appropriate decision.

8. In view of the aforesaid, we do not find any good ground to entertain this Appeal. The Appeal is dismissed.

**[Justice Ashok Bhushan]  
Chairperson**

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

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

***Anjali/nn***