

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 1007 of 2021

IN THE MATTER OF:

Municipal Corporation Faridabad

...Appellant

Versus

Sajeve Bhushan Deora & Ors.

...Respondents

Present:

For Appellant: Ms. Aishwarya Bharti, ASG with Mr. Hemant Gupta and Mr. Alok Sharma, Advocates.

For Respondents: Mr. Sajeve Bhushan Deora, R-1 in person.

Mr. Sudhir Makkar, Sr. Advocate with Mr. Akshay Ringe, Ms. Saumya Gupta and Mr. Veera Mathai, Advocates for R-2.

Mr. Rakesh Kumar, Ms. Preeti Kashyap and Mr. Ankit Sharma, Advocates for R-3&4.

Mr. Sumesh Dhawan and Ms. Geetika Sharma, Advocates for India Bulls Housing.

O R D E R
(Virtual Mode)

08.12.2021: Heard Ms. Aishwarya Bharti, Learned ASG appearing for the Appellant. This Appeal has been filed against order dated 01.04.2021 passed by the Adjudicating Authority (National Company Law Tribunal), New Delhi, Principal Bench rejecting I.A. No. 1221/2021 filed by the Appellant. I.A. was filed by the Appellant under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (for short 'Code') making following prayers:

Cont'd..../

“PRAYER

In the aforesaid facts of circumstances, it is most humbly and respectfully prayed that Hon’ble Tribunal may kindly be pleased to:-

- (a) Direct the Ld. Liquidator to accept the claim of the Applicant Municipal Corporation Faridabad in accordance with law.*
- (b) Direct the Liquidator to conduct fresh valuation in terms of Regulation 35(2) of the IBBI (Liquidation Process) Regulations 2016 & accordingly appoint valuers for ascertaining the value of the Land of the Corporate Debtor being industrial in nature.*
- (c) Pass such other order, direction as this Hon’ble Tribunal may deem fit and proper in the facts of the circumstances of the present case.”*

2. The Adjudicating Authority after considering the Application has rejected the said Application by order dated 01.04.2021. Aggrieved by the order of rejection, this Appeal has been filed.

3. Ms. Aishwarya Bharti, Learned ASG appearing for the Appellant submits that External Development Charges are the first charge on the property and the Respondent having liability to pay statutory dues, order rejecting the claim of the Appellant is unsustainable.

4. CIRP was initiated against the Corporate Debtor – ‘M/s Forging Pvt. Ltd. by order dated 28.03.2018 passed by the Adjudicating Authority. The Corporate

Debtor owned a land situated at 12/6 Milestone, Mathura Road, Faridabad. A demand letter dated 14.01.2021 was issued by Municipal Corporation Faridabad to M/s Forging Pvt. Ltd. through the Liquidator regarding outstanding payment of External Development Charges, etc. calculated upto 31.12.2020. Liquidator sent a reply dated 29.01.2021 to the demand letter denying the demand of outstanding dues. The Appellant on 26.02.2021 filed I.A. No. 1221/2021 before the Adjudicating Authority.

5. By subsequent order dated 26.10.2018, the Adjudicating Authority directed for liquidation of the Corporate Debtor. Advertisement inviting claims was published on 31.10.2018 and thereafter, the Sale Notice was published. The I.A. which has been rejected by the Adjudicating Authority has been filed by the Appellant on 26.02.2021. Admittedly, no claim was submitted before the Liquidator or before Resolution Professional by the Appellant in accordance with the Code. Two prayers which were made by the Appellant are with regard to direction to the Liquidator to accept claim of the Municipal Corporation and further direction to the Liquidator to conduct fresh valuation in terms of Regulation 35(2) of the IBBI (Liquidation Process) Regulations 2016. Learned Counsel for the Appellant submits that Appellant is not keen to press Prayer no.2 and Appeal should be considered in so far as Prayer no.1 is concerned.

6. After perusing the materials on record, we are of the view that the prayer made in the Application could not have been granted as there is no claim filed before the Liquidator or even before the Resolution Professional by the Appellant.

The claim, at the stage when it was filed, could not have been accepted and was rightly rejected by the Adjudicating Authority. Sale having been complete, at this stage, there is no occasion to entertain the claim of the Appellant. We do not find any merit in this Appeal. Appeal is dismissed.

[Justice Ashok Bhushan]
Chairperson

[Justice Jarat Kumar Jain]
Member (Judicial)

[Dr. Alok Srivastava]
Member (Technical)

Archana/nn.