

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
AT CHENNAI

(APPELLATE JURISDICTION)

Company Appeal (AT) (CH) (Ins) No.257/2024
(IA No.690/2024)

In the matter of:

**Kesari Nandan Traders,
6-3-456/A/20, 4th Floor, Flat No.401,
Maruthi Grandeur, Dwarakapuri Colony,
Punjagutta, Hyderabad – 500 073. ... Appellant**

V

**M/s. Nadhi Bio Products Pvt. Ltd.,
Representing by its Resolution Professional,
Mr. Sreenivasa Rao Ravinuthala,
His office at FF 26, Raghava Ratna Towers,
Chirag Ali Lane, ABIDS, Hyderabad – 500 001. ...Respondent**

Present :

For Appellant : Mr. Kumarpal R Chopra & Mr. Chiron Singhi, Advocates
For Respondent : Mr. Shaik Gouse, PCS
For Mr. Mahadev Tirunagari, PCS

Judgment
(Hybrid Mode)

Per: Justice Sharad Kumar Sharma, Member (Judicial)

The Appellant who happens to be a Proprietorship firm, engaged in the business of DDGS (Distillers dried grains & solubles), grain and coal trading is aggrieved by the Impugned Order dated 07.05.2024, by virtue of which his application praying for a direction to the Resolution Professional to admit a claim of Rs.7,29,96,779/- has been rejected by the Learned Tribunal. The Appeal against the Impugned Order was preferred on 16.06.2024, notice was issued to the Respondent, and he had put an appearance. When the proceedings were taken up on 25.02.2025, this Company Appeal was directed to be listed on 17.04.2025.

However, with the Appellant submitting that the approval of the Resolution Plan is scheduled to be held on 28.03.2025 before the Learned NCLT and that if the Appeal is not considered on its merit or an Interim Order is granted the purpose of the lis would become infructuous because of, which he has filed IA No.481/2025, praying for an advance hearing, the application for advance hearing being IA No.481/2025 was taken up for consideration on 27.03.2025. After having considered the reasons given in the Application as well as the arguments which were extended by the Learned Counsel for the Respondent, the Application for advance hearing was considered.

The respective counsels have agreed that the appeal itself may be heard on its merits and may be decided on the same day itself.

The Learned Counsel for the Appellant while addressing upon the Appeal, has submitted that he has filed the application being IA No.543/2024, for the purpose of raising of a claim, invoking Section 60(5) of the I & B Code, 2016, to be read with Rule 11, 13 & 32 of NCLT Rules, 2016. In the said Application, he had prayed for the following reliefs: -

“Reliefs Sought:

- a. Direct Respondent herein to admit the claim of the applicant an amount of Rs.7,29,96,779/- (Rupees Seven Crores Twenty-Nine Lakhs Ninety-Six Thousand Seven Hundred and Seventy-Nine Only);*
- b. Pass an order staying the Corporate Insolvency Resolution Process of the Corporate Debtor, particularly taking any decision on the Resolution Plans if any to be placed before the Committee of*

Creditors till such time as this Application is heard and disposed of finally by this Hon'ble Tribunal;

c. Pass interim and ad-interim orders in terms of prayer clause (b) above;

d. Award costs of the present Application in favor of the Applicant;

e. Pass any such other and further orders, as it may deem fit in the interest of justice”.

The grievance of the Appellant that he had submitted sufficient credible materials in support of his contention for consideration of his claim, which ought to have been considered and dealt with by the Learned Tribunal on its merits and the Learned Tribunal should have under all judicial propriety and fairness should have recorded the reason, which have either an effect of accepting or not accepting the contention of the Appellant as pleaded in the Application, while considering the said Application and rendering its decision.

The Learned Counsel for the Appellant has submitted in his Memorandum of Appeal that the Impugned Order is vitiated on the ground that

1. The order happens to be passed without an application of mind.
2. The order is a non-speaking order.
3. It does not disclose the reason for either accepting or rejecting the contention raised by the Appellant in IA No.543/2024. It does not disclose the fact as to whether the Corporate Debtor has committed a default or not, in the absence of there being any findings recorded.

4. Since the consideration of the Application, will have civil consequences, it should have been decided on merits.

He has further submitted that the Impugned Order does not even consider as to whether the claim of the Appellant was genuine or not in the light of pleadings, which were raised and pressed in the application preferred for raising the claim as extracted above. He submits that in fact none of the grounds, which has been taken by him in the application was considered nor the Tribunal has assigned any reason for either accepting or rejecting the claim as raised by the Appellant and it simpliciter passed a vague order of the following nature: -

“IA(IBC) 543/2024

Order pronounced. The communication of the Resolution Professional as regards to the admission of the claim of the applicant/operational creditor, to the extent that is found in the balance sheet of the Corporate Debtor does not warrant our interference under the facts and circumstances of this case”.

We have heard the Learned Counsels for the Appellant and the Respondent. The Learned Counsel for the Respondent, the Practicing Company Secretary, in all fairness, accepts that the Learned Tribunal while passing an order on the application IA(IBC) 543/2024, has not recorded any reasons as such and that the grounds taken by the Appellant in the Application were not considered by the Learned Tribunal by either accepting or rejecting the same. In fact, the extract of the order which has been given above shows that it is an order rendered without application of mind and without assigning any reason which is a rule, expected

from courts/tribunals deciding rights of parties. Particularly when an order takes the shape of an order which has an element of deciding a civil right of a party before a judicial forum like a court/tribunal, such forum is duty-bound to consider and record its reasons for either accepting or rejecting the grounds taken before making any final adjudication.

Since the Impugned Order is a non-reasoned order, without considering the grounds taken by the Appellant qua his claim raised in his Application preferred being IA(IBC) 543/2024, the Impugned Order dated 07.05.2024 would hereby stand quashed. The matter is remitted back to the Learned NCLT, Hyderabad Bench, to reconsider the Application IA(IBC) 543/2024 on its merit by considering the contention raised by the Appellant in support of his case as pleaded in its application filed before the Tribunal. The Learned Tribunal is expected to hear the parties and only after considering the rival contentions pass a reasoned order on the Application.

Consequently, the Appeal is allowed. The Impugned Order dated 07.05.2024 is quashed. The matter is remitted back to the Learned Tribunal to decide the IA(IBC) 543/2024 afresh.

[Justice Sharad Kumar Sharma]
Member (Judicial)

[Jatindranath Swain]
Member (Technical)

25.04.2025
VG/MS