

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

**Company Appeal (AT) (Insolvency) No. 1118 of 2022**

**IN THE MATTER OF:**

**Manohar Bidaye & Ors. ...Appellants**

**Versus**

**Santanu T. Ray ...Respondent**

**Present:**

**For Appellant: Mr. Ravi Raghunath and Ms. Aakash Lodha,  
Advocates for A-1&2.  
Mr. Sonampreet Singh, Advocate for R-3.**

**For Respondent: Mr. Aditya Gauri, Mr. Dhananjaya Sud and Mr.  
Amar Vivek, Advocates for RP.**

**ORDER**

**30.09.2022:** Heard learned counsel for the parties. This Appeal has been filed against the order passed by the Adjudicating Authority dated 02.05.2022 in I.A. No. 3000/2021. The Resolution Plan in the present case was approved by the CoC on 07.05.2021 and thereafter I.A. No. 1300 of 2021 was filed by the Resolution Professional for approval of the plan on 24.07.2021. I.A No. 1684 of 2021 was filed by the Resolution Professional under Section 66/67 of the Code against the Appellants. Subsequently, the Resolution Plan was approved by the Adjudicating Authority on 16.12.2021. I.A. No. 3000/2021 has been filed by the Appellants 22.12.2021 for dismissal of I.A. No. 1684 of 2021 which was filed by the Resolution Professional under Section 66/67 of the Code, on which application following order has been passed by the Adjudicating Authority:-

*Cont'd.../*

**“I.A. 3000/2021**

*The above Interlocutory Application has been filed by the applicant herein challenging the maintainability of Interlocutory Application I.A. 1684/2021. Since the applicant can challenge the same by filing reply in I.A. 1684/2021, the same is dismissed directing the petitioner to file his objections by way of reply if reply is not filed in I.A. 1684/2021.”*

2. Learned counsel for the Appellants submits that the application filed by the Resolution Professional itself was not maintainable and several grounds have been taken in the application including the question of limitation and the competency of the Resolution Professional to file the application. He has also placed reliance on the judgment of Delhi High Court in support of his submission in **“Writ Petition (C) 8705/2019 & CM APPL.36026/2019, M/s Venus Recruiters Pvt. Ltd. vs. Union of India & Ors.”** decided on 26.11.2020.

3. Learned counsel for the Respondent submits that Appellants have not filed reply to I.A. 1684/2021 and Adjudicating Authority has granted liberty to them to file reply and raise all objections, hence, no prejudice is said to be caused to the Appellant.

4. We have considered the submissions of learned counsel for the parties and perused the record.

5. The Adjudicating Authority in the impugned order has noticed the challenge of the Appellants on the maintainability of I.A. No. 1684/2021.

However, the order itself indicate that the objection of the Appellants can be filed by way of reply. We, hence, are of the view that there is no prejudice caused to the Appellants since they are not precluded to raise objections when I.A. 1684/2021 would be heard by the Adjudicating Authority. We, thus, are of the view that no grounds have been made out to entertain this Appeal.

6. Learned counsel for the Appellants submit that he may be permitted to raise the issue of maintainability as a preliminary issue. We are not inclined to issue any direction in this regard as the objection can also be decided at the time of hearing of the application.

7. The appeal is dismissed with observations as above.

**[Justice Ashok Bhushan]  
Chairperson**

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

***Archana/nn***