

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

Company Appeal (AT) (Insolvency) No.721 of 2023

IN THE MATTER OF:

Mr. Atulya Kumar Dash **...Appellant**

Versus

Punjab National Bank **...Respondent**

With

Company Appeal (AT) (Insolvency) No.722 of 2023

IN THE MATTER OF:

Mr. Prashanta Chandra Ratha **...Appellant**

Versus

Punjab National Bank **...Respondent**

With

Company Appeal (AT) (Insolvency) No.725 of 2023

IN THE MATTER OF:

Mr. Suryakanta Acharya **...Appellant**

Versus

Punjab National Bank **...Respondent**

With

Company Appeal (AT) (Insolvency) No.726 of 2023

IN THE MATTER OF:

Smt. Lora Mitra Rath **...Appellant**

Versus

Punjab National Bank **...Respondent**

Present:

For Appellant: Mr. Saswat K. Acharya and Mr. Dhananjay B. Ray, Advocates.

For Respondent: Mr. Ankit Raj, Mr. Piyush Beriwal and Mr. Rajnish Kumar, Advocates for PNB.

ORDER

30.05.2023: These appeals have been filed by the Personal Guarantors challenging the order dated 09.05.2023 by which order on an application filed by the Punjab National Bank, the Adjudicating Authority has appointed the Resolution Professionals and granted him time to file report after serving a copy to the applicant and the matter is directed to be listed on 30.05.2023.

2. Learned counsel for the Appellant challenging the order contends that by the order dated 09.05.2023, the Adjudicating Authority has also determined the question of limitation against the applicant although reply or objection of the applicant were not filed by that time. He further submits that Appeal was although filed on 22.05.2022 but since it was not heard, the Appellant could not file its objections and documents before the Resolution Professional.

3. We have considered the submissions of learned counsel for the parties and perused the record. From Para 7 of the order it is clear that the submission was advance by counsel appearing for the Personal Guarantor that petition is barred by limitation. Due to the said submission, the Adjudicating Authority entertained the submission and expressed a prima facie view that application is not barred by time. The Adjudicating Authority being conscious of the aforesaid fact, granted time to both the parties to

submit their documents and their version before the Resolution Professional for his examination.

4. We, thus, are of the view that observation made by the Adjudicating Authority in the impugned order on the limitation is only a prima facie view and may not be treated to be expression of opinion by the Adjudicating Authority. The Adjudicating Authority shall consider the said issue afresh after receiving the report and after considering versions of both the parties.

5. Learned counsel for the Appellant submits that Appellant was not able to file reply, document and their version. We permit the Appellant to file their documents and version within two weeks from today before the Resolution Professional. The Resolution Professional after considering the documents and versions may file an Additional Report since Report has already been filed, as submitted by learned counsel for the Appellant.

6. In view of the aforesaid, we see no reason to interfere with the impugned order. The Appeals are disposed of, subject to as above.

[Justice Ashok Bhushan]
Chairperson

[Naresh Salecha]
Member (Technical)

Archana/nn