

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

Company Appeal (AT) (Insolvency) No. 761 of 2022

IN THE MATTER OF:

KKalpna Industries (India) Ltd.

...Appellant

Versus

Atharva Poly-Plast Pvt. Ltd.

...Respondent

Present:

For Appellant: Mr. Rohit Bohra, Advocate.

For Respondent:

ORDER
(Virtual Mode)

15.07.2022: This Appeal has been filed against the order dated 28.04.2022 by which order the Adjudicating Authority (National Company Law Tribunal), Mumbai Bench, Court-IV has rejected the Application of the Appellant as non-maintainable observing that it does not meet the minimum criterial of Rs.1 Crore whereas the application has been filed on 23.04.2022.

2. Learned counsel for the Appellant submits that in fact the Application was filed by the Appellant under Section 9 on 17.02.2020 and again was filed physically on 19.02.2020 but since the application was untraceable, fresh application was filed on 23.04.2022.

3. We have perused the application filed by the Appellant. Learned counsel for the Appellant submitted that in fact the counsel appearing for the Appellant before Adjudicating Authority filed the same application which was filed on 17.02.2020 again on 23.04.2022, which petition came for

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consideration of the Adjudicating Authority and has been rejected. The Adjudicating Authority has passed the order in C.P.(IB)/530/2022 which application was admittedly filed on 23.04.2022. Hence, there is no error in the order of the Adjudicating Authority rejecting the Application since the amount claimed in the petition was Rs.6.5 Lakhs.

4. As far as the submission of the Appellant that earlier application was filed which became untraceable, it was open for the Appellant to take steps for taking the said application on board, which was not done.

5. We are of the view that order as passed by the Adjudicating Authority rejecting the Application does not suffer from any error. However, we observe that it is always open to the Appellant to take such measure as available in law to recover the amount of Rs.6.5 Lakhs as claimed by the Appellant. The appeal is dismissed with the above observations.

[Justice Ashok Bhushan]
Chairperson

[Justice M. Satyanarayana Murthy]
Member (Judicial)

[Barun Mitra]
Member (Technical)

Archana/nn