

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
AT CHENNAI
(APPELLATE JURISDICTION)
Company Appeal (AT)(CH)(Ins) No.245/2022 (Contempt Case (AT)
No.5/2022) & IA Nos.519, 636 and 838/2022
(Under Section 61 of the Insolvency and Bankruptcy Code, 2016)
(Arising out of the Impugned Order dated 06.06.2022 in
IA/196(CHE)/2022 in IBA/578/2019
passed by the ‘Adjudicating Authority’ (National Company Law
Tribunal, Special Bench – II, Chennai)

In the matter of:

V Karthikayan ... Appellant
V
M.S. Viswanathan and Ors. ... Respondents

Present :

For Appellant : Mr. Ravi Rajagopalan, Advocate
for Resolution Applicant

For Respondents : Mr. M.S. Viswanathan, Advocate for R1
Mr. M.L. Ganesh, Advocate for R2 / SBI
Mr. T. Ravichandran, Advocate for R3/ Liquidator

ORDER

(Virtual Mode)

13.10.2022 : Heard Mr. Ravi Rajagopalan, the Learned Counsel appearing for the ‘Appellant’ / ‘Resolution Applicant’, Mr. M.L. Ganesh, the Learned Counsel appearing for the 2nd Respondent / State Bank of India (Sole Member of the Committee of Creditor) and Mr. T. Ravichandran, the Learned Counsel for the 3rd Respondent / Liquidator.

2. According to the Learned Counsel for the ‘Appellant’ / ‘Suspended Director of M/s. Leo Primecomp Pvt. Ltd.’ / ‘Resolution Applicant’, the ‘Adjudicating Authority’ (National Company Law Tribunal, Special Bench – II, Chennai) in IA/196(CHE)/2022 in IBA/578/2019 had passed an ‘Order’ of ‘Liquidation’ on 06.06.2022 by ‘Appointing’ the ‘Liquidator’ in respect of the ‘Corporate Debtor’, to carry out the ‘Liquidation Process’, subject to the ‘Directions’, issued therein.

3. On being aggrieved against the ‘Order’ of ‘Liquidation’ dated 06.06.2022 passed by the ‘Adjudicating Authority’ (National Company Law Tribunal, Special Bench – II, Chennai) in IA/196(CHE)/2022 in IBA/578/2019, the ‘Appellant’ / ‘Suspended Director of M/s. Leo Primecomp Pvt. Ltd.’, Chennai 600 015 has preferred the instant Comp. App. No. (AT)(CH)(Ins) No.245/2022, assailing the ‘correctness’ of the ‘Impugned Order’ of ‘Liquidation’ passed.

4. On behalf of the ‘Appellant’ / ‘Suspended Director of M/s. Leo Primecomp Pvt. Ltd.’, in the present Comp. App. (AT)(CH)(Ins) No.245/2022, a ‘Memo’ is filed (vide Diary No.2688) dated 27.09.2022, before this ‘Tribunal’, showing that a ‘total Resolution Plan’ for a sum of Rs.72 Crore, was remitted to the 2nd Respondent / State Bank of India (Sole Member of the Committee of Creditor), as per the ‘Terms of Settlement’ with

an 'Upfront Payment' of Rs.17.51 Crore, being remitted on 30.08.2022 and the remaining sum of Rs.54.49 Crore was remitted on 27.09.2022, which was duly acknowledged, as received by the 2nd Respondent / State Bank of India (Sole Committee of Creditor Member).

5. The aforesaid factum of having received Rs.72 Crore paid by the 'Appellant' is admitted by the 2nd Respondent / State Bank of India (Sole Member of the Committee of Creditor) side. Based on the said total sum of Rs.72 Crore, towards the 'Resolution Plan', having been remitted and received by the 2nd Respondent / State Bank of India (Sole Member of the Committee of Creditor), the Learned Counsel for the 'Appellant' prays for an 'Order' being passed by this 'Tribunal' to set aside the 'Order' of 'Liquidation' dated 06.06.2022 in IA/196(CHE)/2022 in IBA/578/2019 passed by the 'Adjudicating Authority' (National Company Law Tribunal, Special Bench – II, Chennai). For this relief being sought for by the Appellant, there is 'no objection' on the side of the 2nd Respondent / State Bank of India (Sole Member of the Committee of Creditor) and on behalf of the 3rd Respondent / Liquidator respectively.

6. In view of the fact that the 'Appellant' had 'Remitted' a total sum of Rs.72 Crore to the 2nd Respondent / State Bank of India (Sole Committee of Creditor Member), in 'Terms of Settlement', and that fact is 'not

Contradicted’ on the ‘Respondents’ side, this ‘Tribunal’, to ‘prevent an aberration of Justice’ and to ‘permit the substantial cause of Justice’, ‘sets aside’ the ‘Order of Liquidation’ dated 06.06.2022 in IA/196(CHE)/2022 in IBA/578/2019 passed by the ‘Adjudicating Authority’ (National Company Law Tribunal, Special Bench – II, Chennai), and directs the ‘Adjudicating Authority’ (National Company Law Tribunal, Special Bench – II, Chennai), to take on ‘Record’ the ‘Improved Resolution Plan’ dated 30.08.2022, which was submitted by the ‘Appellant’ to the 2nd Respondent / State Bank of India (Sole Member of the Committee of Creditor) and to proceed further, as per the ‘ingredients of the Insolvency & Bankruptcy Code, 2016 and as per the ‘Rules and Regulations’ that are in force.

7. Added further, the 3rd Respondent / Liquidator, is to be continued as the ‘Resolution Professional’ for carrying out the Committee of Creditor’s Proceedings, in view of the fact, that he is ‘currently’ / ‘presently’ in-charge of the ‘Operations of the Corporate Debtor’.

8. As regards the ‘Exclusion of a Time’, prayed for, by the ‘Appellant’, i.e., from 07.03.2022 till 28.09.2022 (205 Days), being the ‘Time Spent’ before the ‘Adjudicating Authority’ (National Company Law Tribunal, Special Bench – II, Chennai) and the ‘Period Spent’ from 06.06.2022, till ‘this Date (13.10.2022), shall be ‘Excluded’, for the purpose of computing the

‘Completion of Corporate Insolvency Resolution Process’ period, by the ‘Adjudicating Authority’ (National Company Law Tribunal, Special Bench – II, Chennai).

9. Added further, a sum of Rs.72 Crore remitted by the ‘Appellant’ (in ‘Two Instalments’) before the 2nd Respondent / State Bank of India (Sole Member of the Committee of Creditor) and received by the said Bank, the Bank is permitted by this ‘Appellate Tribunal’ to take a ‘Plea’ before the ‘Adjudicating Authority’ (National Company Law Tribunal, Special Bench – II, Chennai), with regard to an ‘Appropriation’ of a sum of Rs.72 Crore and in such an event, the ‘Adjudicating Authority’ (National Company Law Tribunal, Special Bench – II, Chennai) is to take a ‘Final Call’ in the matter, of course, in the manner ‘known to Law’ and ‘in accordance with Law’.

With the above said ‘Observations and Directions’, the instant Comp. App. (AT)(CH)(Ins) No.245/2022 stands **‘disposed of’**. No **Costs**. In view of the ‘disposal of’ Main Comp. App. (AT)(CH)(Ins) No.245/2022, the connected IA/519/2022 (for ‘Stay) and IA Nos.636/2022 and IA/838/2022 are **Closed**.

In the teeth of ‘disposal of’ Main Comp. App. (AT)(CH)(Ins) No.245/2022 by this ‘Appellate Tribunal’, the ‘Contempt Case (AT)

No.5/2022', in Comp. App. (AT)(CH)(Ins) No.245/2022 filed by the
'Applicant' / 'Appellant' is **'Dismissed'**.

[Justice M. Venugopal]
Member (Judicial)

[Naresh Salecha]
Member (Technical)

ghk/tm