

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

**Company Appeal (AT) (Insolvency) Nos. 1223-1224 of 2019
With Interlocutory Application Nos.3563-3564 of 2019**

IN THE MATTER OF:

Sunil S. Kakkad

.... Appellant

Vs

Parag Sheth,
Resolution Professional/ Liquidator & Anr.

.... Respondents

Present:

For Appellant: Mr. Rajendra Beniwal, Advocate.

ORDER

13.11.2019 The Learned Counsel for the Appellant submits that the Appellant is in judicial custody and, therefore, there is 9 days' delay in preferring the Appeal.

2. Having heard learned counsel for the Appellant and being satisfied with the grounds, the delay of 9 days in preferring the appeal is condoned. Interlocutory Application Nos.3563-3564 of 2019 stand disposed of.

3. The Power of Attorney holder of the Appellant ('Corporate Debtor') – Director of M/s Sai Infosystem (India) Limited filed Interlocutory Application for direction on the 'Resolution Professional' to handover a copy of all the documents relating to 'Corporate Debtor', including the Information Memorandum on the ground that Appellant is a prospective 'Resolution Applicant' and intends to file 'Resolution Plan'. Prayers were also made to stay the proceedings and to recall the order passed on 30th November, 2017, by which the 'Corporate Insolvency Resolution Process' was initiated.

4. The Adjudicating Authority (National Company Law Tribunal), Ahmedabad Bench, Ahmedabad by impugned order dated 22nd August, 2019 having noticed the following facts, rejected the application: -

*“4. While going through the records of the present matter, it is found that CIRP closed on 28.05.2018.
It is also observed that:*

- (i) Corporate Debtor Company is not going concern since June, 2013.*
- (ii) The Corporate Debtor Company is out of business since last 5 years.*
- (iii) There is no Key Managerial Personnel available in the Corporate Debtor Company.*
- (iv) There is no employee in the Corporate Debtor Company.*
- (v) Assets against the Liabilities and Claims are not favorable to restart and revival of the Corporate Debtor Company.*
- (vi) No Resolution Plan is received till date.”*

5. The Learned Counsel for the Appellant submitted that the Appellant has right to go through the records of Memorandum of Information, as it intends to file a ‘Resolution Plan’. However, such question does not arise, as the ‘Corporate Debtor’ has been ordered for ‘Liquidation’. This apart, the ‘Corporate Insolvency Resolution Process’ was initiated on 30th November, 2017 and in absence of any challenge to the said order before this Appellate Tribunal or before any Competent Court of Law, it was not open to the Appellant to ask for recall of order of admission dated 30th November, 2017, after more than six months.

6. We find no merit in this Appeal and it is accordingly dismissed.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice Venugopal M.]
Member (Judicial)

Ash/GC