

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
CHENNAI BENCH
(APPELLATE JURISDICTION)

Comp App (AT) (CH) (Ins) No. 57/2023

&

I.A. No.195 of 2021

(Under Rule 11 of the NCLAT Rules, 2016 for condonation of delay in filing the Appeal u/s 61(2) of the IBC, 2016)

[Arising out of the Order dated 26.10.2022 in IA (IBC)/144/2022 in CP(IB) No.39/7/AMR/2021 passed by the Hon'ble National Company Law Tribunal, Amaravati Bench]

In the matter of :

State Bank of India

...Appellant

V

Vantage Spinners Private Ltd.

...Respondent

Present:

For Appellant : Mr. M.L. Ganesh, Advocate
Mr. J. Arun Kumar, Advocate

For Respondent : Jerin Asher Sojan, Advocate

14.06.2023:

ORDER
(Physical Mode)

Heard both sides.

The Learned Counsel for the 'Appellant'/'State Bank of India' has preferred the instant Company Appeal (AT)(CH)(Ins) No.57 of 2023 as an 'Aggrieved Person', on being dissatisfied with the 'Impugned Order' dated 26.10.2022 in IA(IBC)/144/2022 passed by the 'Adjudicating Authority'/National Company Law Tribunal, Amaravati Bench.

The ‘Adjudicating Authority’/National Company Law Tribunal, Amaravati Bench while passing the ‘Impugned Order’ dated 26.10.2022 in IA(IBC)/144/2022 in CP No.39/7/AMR/2021 [filed by the ‘Petitioner’/‘Appellant’/ ‘Financial Creditor] has observed the following:

“Heard both the Counsel. Both the Counsel submits that NCLAT vide order dated 27.03.2022 has granted stay of the order of this ‘Tribunal’ with regard to the continuation of the CIRP. This application is filed on the ground that the claim submitted by the Financial Creditor is not admitted by the Resolution Professional (RP). In view of the stay granted by the NCLAT, this Tribunal opines that the claim of the Applicant cannot be admitted at this stage. Hence, this application is dismissed with liberty to the Applicant to file this application after the vacation of the stay by the NCLAT.”

The Learned Counsel for the ‘Appellant’ points out that the ‘Appellant’ cannot wait endlessly till the ‘Main Appeal’ (AT)(CH) (INS) 57 of 2023 is ‘disposed of’ by this ‘Tribunal’, because of the fact that the ‘Interim Order’ dated 26.10.2022 wherein a ‘Stay’ was granted is operating against the ‘Appellant’/‘Bank’ to its detriment. Furthermore, it is the plea of the ‘Appellant’/‘Bank’ that the Section 7 Application filed under Insolvency and Bankruptcy Code, 2016 before the ‘Adjudicating Authority’ by the ‘Appellant’/‘Petitioner’/‘Financial Creditor’ has to be decided independently and need not wait for the outcome of Comp. (AT) (CH) (Ins) 57 of 2023 on the file of this ‘Appellate Tribunal’.

At this juncture, this ‘Tribunal’ on going through the ‘Impugned Order’ dated 26.10.2022 in IA(IBC) 144 of 2022 is of the considered opinion that the present ‘Appeal’ is perse not maintainable based on the latent and patent fact that because of the stay only having been granted by this ‘Tribunal’ in CA (AT)(CH)(Ins) No.57 of 2023 the ‘Adjudicating Authority’ came to the conclusion that IA(IBC) No.144 2022 cannot be admitted at this stage and the very fact that a ‘Liberty’ was granted to the ‘Appellant’/‘Applicant’ to file

another 'Application' or to file this IA/144/2022 after the vacation of the Stay granted by the 'Appellate' Tribunal in the main Appeal, the said observation in our considered view is perfectly legal, tenable and correct one and it does not suffer from any material irregularity or patent illegality in the 'eye of Law'. Viewed in that perspective the instant Company Appeal (AT)(CH)(Ins) No.57 of 2023 is 'devoid of merits' and it fails.

In fine the instant Company Appeal (AT)(CH)(Ins) No.57 of 2023 is 'Dismissed'. No costs. Connected IA's are closed.

Before parting with the case, this 'Tribunal' makes it abundantly clear that the Dismissal of the 'Instant Company Appeal(AT)(CH)(Ins) No.57 of 2023' will not preclude the 'Appellant' to file another 'Application/'Petition' after the vacation of stay by this 'Appellate Tribunal' in the main 'Appeal' if the 'Applicant'/'Appellant Bank' so desires/advised of course in the manner known to Law and in accordance with Law.

[Justice M. Venugopal]
Member (Judicial)

[Shreesha Merla]
Member (Technical)

SE/TM