

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeals (AT) (Insolvency) Nos. 230-231 of 2018

IN THE MATTER OF:

Vijay Kumar Modi & Anr.

...Appellants

Vs.

Singhania International Ltd. & Anr.

...Respondents

Present: For Appellants: - Mr. Nesar Ahmad, PCS and Mr. Rohit Chaudhary, Advocate.

ORDER

22.05.2018- This appeal has been preferred by the Appellants, who are the Promoter of the 'Corporate Debtor' (M/s. Aseem Ispat Pvt. Ltd.) against orders dated 25th April, 2018 and 2nd April, 2018 passed by the Adjudicating Authority (National Company Law Tribunal), Chandigarh Bench, Chandigarh.

2. By the order dated 25th April, 2018, the Adjudicating Authority directed the Appellants to refund certain amount which was drawn by him after initiation of the 'Corporate Insolvency Resolution Process' (admission of the application under Section 9 of the Insolvency and Bankruptcy Code, 2016).

Contd/-.....

3. By the other order dated 2nd April, 2018, in absence of any 'Resolution Plan' and completion of 180 days, the Adjudicating Authority issued order for liquidation of the 'Corporate Debtor'.

4. Learned counsel appearing on behalf of the Appellants submits that as the 'Resolution professional failed to pay GST and salary of the employees, therefore, certain amounts were withdrawn by the Appellants from the Bank Account of the 'Corporate Debtor'. According to him, the Adjudicating Authority wrongly directed the Appellants to refund the amount.

5. It is not in dispute that the 'Corporate Insolvency Resolution Process' was initiated on 20th September, 2017, but in spite of the same, the Appellants withdrew the amounts from the account of the 'Corporate Debtor'. There is nothing on the record to suggest that the 'GST' or 'salary of the employees' have been paid out of the amount withdrawn by the Appellants. Such claim being not based on any record cannot be accepted.

6. In absence of any evidence, this Appellate Tribunal cannot accept the plea taken by the Appellants (Promoter) that the amount was withdrawn by them for payment of 'GST' and 'salary of the employees'. If the 'Resolution Professional' has refused to deposit the 'GST' amount

in view of the order of 'Moratorium' passed by the Adjudicating Authority, the Appellants (Promoter) cannot take plea that they had a right to deposit the GST.

7. For the reasons aforesaid, we are not inclined to interfere with the impugned order dated 25th April, 2018.

8. In so far the impugned order dated 2nd April, 2018, which relates to initiation of liquidation process is concerned, in absence of any 'Resolution Plan' and in absence of any recommendation of the 'Committee of Creditors' to extend the period of Resolution Process, the Adjudicating Authority rightly passed order for initiating liquidation proceeding which is in accordance with the provisions of the Insolvency and Bankruptcy Code, 2016. Therefore, no interference is called for.

We find no merit in these appeals. They are accordingly dismissed.

No cost.

(Justice S.J. Mukhopadhaya)
Chairperson

(Justice Bansi Lal Bhat)
Member(Judicial)

Ar/g