

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI
Company Appeal (AT)(Insolvency) No. 483 of 2018

IN THE MATTER OF:

Subodh Kumar Agarwal

...Appellant

Vs

EIH Limited

.. Respondent

Present:

For Appellant: Mr. Sumant Batra, Advocate Ms. Kiran Sharma CS and Mr. Subodh Kumar Agarwal-RP.

For Respondent: Mr. Niranjan Reddy, Mr. Sudipto Sarkar Senior Advocates with Mr. Abhijeet Sinha, Mr. Arijit Mazumdar, Mr. Shambo Nandy, Ms. Rubaina Khatoon, Ms. Akansha Kaushik and Mr. Saikat Sarkar.

O R D E R

20.09.2018: Certain suggestions have been made by both learned Counsel appearing on behalf of Resolution Professional and the Respondent referring to the interim order dated 27.08.2018 passed by this Appellate Tribunal. Taking into consideration their submissions we pass the following order which is required to be followed during the period of moratorium for proper management of Hotel Trident, Hyderabad to ensure that the hotel remains an ongoing concern and the customers do not face any difficulty.

‘Resolution Professional will run the management of the Corporate Debtor to ensure that the Company, particularly Hotel Trident remains ongoing concern. He will follow applicable provisions of the agreement in consonance with

Insolvency & Bankruptcy Code, 2016 and Articles 6 & 7 and will obtain necessary guidelines from Respondent which has experience of running the hotel business. It will be open to the Respondent to advise the Resolution Professional to ensure that the hotel continues to be an ongoing concern. The Respondent will also extend full cooperation to the Resolution Professional or its authorised representative.

The person who is authorised to sign bank cheques of the Company including the cheques for purchase of day to day materials for the Hotel Trident will issue cheques only after authorisation of the Resolution Professional or any other person authorised by the Resolution Professional. The Resolution Professional may also authorise any officer or employ of Hotel Trident for aforesaid purpose. The cheques should be allowed to be encashed at an early date preferably within 48 hours to ensure that the hotel business does not suffer. The Resolution Professional should also make arrangement for payment of wages to the staffs, employees, current bills of Service Providers and tax etc. The Resolution Professional will not pay any debt to any of the Creditors which are of the period prior to the date of initiation 'Corporate Insolvency Resolution Process' (admission of the case). The bank account(s) of the 'Corporate Debtor(s)'/Company be allowed to be operated for day-to-day functioning of the Company such as payment of current

bills of the suppliers, tax, wages of the employees'/workmen, water and electricity bills etc. apart from the observation as made above.”

It is made clear that the authorised person who will sign the bank cheques will intimate the Resolution Professional or its authorised representative the purpose for which cheques have been issued so that the Resolution Professional or its authorised representative may verify the reason.

No payment should be made to any of the related parties. The impugned order dated 25th July, 2018 passed by Adjudicating Authority (National Company Law Tribunal) Hyderabad Bench, Hyderabad stands modified.

The interim order dated 27.08.2018 passed by this Appellate Tribunal will also continue till the date of moratorium.

The appeal is disposed of with aforesaid observation and direction.

No cost.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

Akc/Sk