

NATIONAL COMPANY LAW APPELLATE TRIBUNAL,

PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Ins) No. 221 of 2021

IN THE MATTER OF:

K. Srinivas Krishna

Appellant

Vs.

Shyam Arora & Ors.

....Respondents

Present:

For Appellant: Mr. P. Nagesh, Sr. Advocate with Mr. Shantam

Gorawara, Mr. Srinivas Kotni, Advocates

For Respondent: Mr. Shyam Arora (R1, in-person).

Mr. VM Kannan, Mr. Sanjay Kapur, Ms. Megha

Karnwal, Mr. Arjun Bhatia, Advocates for R2

Dr. K Lakshmi Narasimha, Sr. Adv. With Mr. Ishan

Bhat, Advocate for R3

O R D E R

(Virtual Mode)

27.05.2021: Ld. Sr. Counsel Mr. P Nagesh appearing on behalf of the Appellant submits that at the instance of Respondent No. 3 (Operational Creditor) CIRP Initiated. During CIRP, the Appellant/ Resolution Professional of Corporate Debtor has paid the Operational Debt to the Respondent No. 3 and also settled the matter with sole Financial Creditor SBI. Thereafter, on the direction of the CoC, RP has filed Application under Section 12A of the IBC before the Adjudicating Authority but the Adjudicating Authority has erroneously dismissed the Application by the impugned order only on this ground that the application is not signed by the Operational Creditor. Though, the signature of the Operational Creditor is not required. Therefore, the Appellant has filed this Appeal.

The Appellant has filed an Application on 01.05.2021 for stay of CIRP.

Ld. Counsel for the appellant further submits that as the CIRP is going on, the Appellant is unable to participate in the tender procedure and Appellant is **MSME**. The Appellant has a good case in Appeal, therefore, the CIRP may be stayed till pendency of this Appeal.

Ld. Counsel appearing on behalf of the Operational Creditor (Respondent No. 3) vehemently opposes the prayer and submits that the Appellant has not paid the total Operational Debt, therefore, Ld. Adjudicating Authority has rightly rejected the Application under Section 12A of the IBC. The Appellant has failed to make out a case for interim relief, therefore, the Application for interim relief be dismissed.

We have considered the submissions, further proceedings of CIRP shall remain stayed till next date of hearing.

Appellant is directed to provide appeal paper book to the Respondent No. 3 within two days. Respondent No. 3 seeks and is granted ten days' time to file Reply Affidavit. Rejoinder, if any, may be filed one week thereafter.

Parties are also directed to file Written Submissions not more than three pages alongwith relevant citations before the next date of hearing.

The matter has already been fixed **for hearing on 18th June, 2021.**

**[Justice Jarat Kumar Jain]
Member (Judicial)**

**[Dr. Ashok Kumar Mishra]
Member (Technical)**