

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 115-116 of 2021

IN THE MATTER OF:

Committee of Creditors **....Appellant**
Through Shri Ashish Kumar Srivastava

Vs

Sanjay Gupta and Anr. **....Respondents**

Present:

For Appellant: Mr. Aditya Nayyar, Advocate.

For Respondents: Mr. Nipun Gautam, Advocate for R-1.

**Mr. Abhishek Anand and Mr. Kunal Godhwani,
Advocates for R-2 (RP)**

O R D E R
(Through Virtual Mode)

15.02.2021: I.A. No. 269-270 of 2021 is disposed of with direction to file certified copy of the impugned order within two weeks of same being made available, if the appeal survives for consideration.

2. I.A. No. 267-268 of 2021 stands disposed for with direction to produce legible copies of the Annexures to appeal paper book within two weeks, in case, the appeal survives for consideration.

3. Heard Mr. Aditya Nayyar, Advocate representing the Appellant in both the appeals.

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4. In terms of the impugned order dated 5th January, 2021, Appellant's right to file reply in CP (IB)-266(ND)2019 pending disposal before the Adjudicating Authority (National Company Law Tribunal), New Delhi Bench, Court II has been closed. This course appears to have been adopted by the Adjudicating Authority keeping in view the peremptory direction passed on 2nd November, 2020 wherein it was specifically mentioned that no further adjournment will be granted to file the reply. The matter was adjourned to 27th November, 2020. The Appellant herein failed to file reply even on that day. Thus, the right to file reply came to be forfeited. Impugned order dated 12th January, 2021 appears to have been passed in I.A. No. 59/2021 moved by the present Appellant to review the earlier order but the same was not allowed.

5. Mr. Nipun Gautam, Advocate appears on behalf of Respondent No. 1. Mr. Abhishek Anand, Advocate appears on behalf of Respondent No. 2.

6. After hearing learned counsel for the parties, we find that no legally sustainable ground has been projected to demonstrate that the impugned orders suffer from any legal infirmity. The Corporate Insolvency Resolution Process is a time bound process and the proceedings not being adversarial in nature would not warrant granting of adjournments liberally, the proceedings not being civil litigation.

7. The Appellant has, in first place, not filed the reply within the specified time and on adjournment being granted with peremptory direction still failed to put in its response, leaving the Adjudicating Authority with no option but to close its right to file reply. The subsequent order, being in nature of review of the earlier order not based on any error apparent on the face of record, cannot be found fault with.

8. We accordingly find no merit in the appeals. Same are dismissed with direction to the Adjudicating Authority to allow the Appellant to place on record its written submissions as even after closing of its right to file reply, an opportunity of being heard has to be afforded to it. The appeals are accordingly disposed off.

[Justice Bansi Lal Bhat]
Acting Chairperson

[Dr. Ashok Kumar Mishra]
Member (Technical)

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