

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Ins) No.185 of 2021

[Arising out of Order dated 02.02.2021 passed by National Company Law Tribunal, Ahmedabad Bench, Ahmedabad in C.P. (IB) No.625 of 2018]

<u>IN THE MATTER OF:</u>	Before NCLT	Before NCLAT
Mr. Ajit Kumar, Resolution Professional of K-Lifestyle & Industries Limited, 83, National Media Centre, Shankar Chowk, Near Ambience Mall, DLF Cybercity, Gurugram – 122002	RP	Appellant

Versus

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|--|-----|--------------------|
| 1. Ms. Manasi Wadekar
B/302, Millennium Park
Building No.1,
Mahatma Phule Road,
Near Vijay Society,
Shashikant Nagar,
Dombivali – 421202 | ... | Respondents 1 to 5 |
| 2. Mr. Narayan Ramchandra
Ghumatkar,
1/19, 676,
Jariwala Building,
N.M. Joshi Marg,
Byculla Station,
V J B Udyan,
Mumbai 400027 | ... | |
| 3. Mr. Pravinkumar
Mohanlal Parekh,
Vraj Darshan Complex,
Khanwel Road, | ... | |

Near Gram Panchayat,
Samarvani,
Dadra & Nagar Haveli,
Silvassa – 396230

4. Mr. Jaiprakash Atmaram ...
Mishra,
A-801, Royal Residency,
Puna Link Road,
Vitthalwadi Station,
Katemanivali,
Kalyan East,
Kalyan – 421306
5. Mr. Brijendra Mishra, ...
Resolution Professional of
Krishna Knitwear
Technology Limited
Flat No.202, 2nd Floor,
Bhoj Bhavan,
Plot No.18-D, Shivpuri,
SION-TROMBAY Road,
Chembur (East)
Mumbai City,
Maharashtra – 400071

For Appellant: **Shri Shivanshu Kumar, Advocate**
 Shri Ajit Kumar, RP

For Respondents: **None**

ORDER
(Virtual Mode)

10.03.2021 Heard Counsel for the Appellant – Resolution Professional.
The Appellant – Resolution Professional was appointed as Resolution Professional in CP (IB) 625 of 2018 on 5th February, 2020 by Adjudicating Authority (National Company Law Tribunal, Ahmedabad Bench, Ahmedabad).
It is stated that CIRP (Corporate Insolvency Resolution Process) was initiated

by UCO Bank against Corporate Debtor – K-Lifestyle and Industries Ltd. Copy of the Order is stated to be at Page – 68 of the Appeal. Learned Counsel for Appellant submits that there was another CIRP already initiated against Corporate Debtor - Krishna Knitwear Technology Ltd. on 4th October, 2019. Counsel for Appellant submits that Krishna Knitwear Technology Ltd. is sister concern of K-Lifestyle and Industries Ltd. It is stated that Krishna Knitwear Technology Ltd. is in possession of properties which belong to K-Lifestyle and Industries Ltd. having property Survey No.65/2 and 65/4, Krishna Nagar Samarvani Silvassa. The learned Counsel submits that the Applicant had moved Application I.A. 864 of 2020 (Annexure - 2 – Page 50) against the IRP and Directors of Krishna Knitwear Technology Ltd. to handover charge of the property. The Adjudicating Authority had passed Order dated 5th January, 2021 in which, Orders with regard to I.A. No.864 of 2020 (Page 219 A) were as follows:-

“IA 607 of 2020 and IA 864 of 2020 are again filed by RP for direction to the Suspended Management to hand over all the possession of the property.

Since, Suspended Management of the Corporate Debtor is duty bound to hand over all documents, learned counsel for the Suspended Management submits that they have been cooperating the RP. We recorded his statement and direct Suspended Management to hand over possession of the assets. If anything remains then Suspended Management to hand over the possession of remaining assets to RP within one week.

In case of their failure, RP may approach to local Police and seek their assistance. With these directions, IA 607 of 2020 and IA 864 of 2020 stand disposed of. RP to file progress report on 02.02.2021.”

2. The learned Counsel submits that in spite of the said Orders, the RP of Krishna Knitwear Technology Ltd. was not cooperating and the Appellant filed I.A. No.53 of 2021 (Page – 223) seeking modification of Order dated 5th January, 2021 and to restore I.A. No.864 of 2020 and to direct RP of Krishna Knitwear Technology Ltd. to handover possession of asset in which now the present Impugned Order is passed which with regard to I.A. No.53 of 2021 reads as under:-

“IA No.53 of 2021 is filed by the Resolution Professional for listing IA No.864 of 2020, wherein, this Adjudicating Authority already directed Suspended Management to cooperate the RP for successful completion of CIRP. This application is for rectification of that order, wherein, learned RP wants us to direct Mr. Brijendra Mishra RP of Krishna Knitwear Technology (accordingly, to me them a group company without providing any record to us) to cooperate. Such direction cannot be given for want of sufficient material.

Hence, this application is not maintainable accordingly, IA No.53 of 2021 stands disposed of.”

3. The learned Counsel submits that the IRP of the other matter is not cooperating.

4. As Professionals working under the provisions of IBC, if there are two CIRP proceedings, IRPs/RPs are expected to coordinate and cooperate with each other remaining bound and confined under the provisions of IBC.

5. We do not think that it is necessary for us to entertain the present Appeal. Without seeking Group Insolvency or consolidation of CIRPs, RP in one CIRP is trying to take over property with Corporate Debtor of another CIRP. RPs need to go to Judgements and provisions of IBC to resolve issues

like this. There is also access to IBBI (Insolvency and Bankruptcy Board of India) open to parties in case, IRPs/RPs are not acting in terms of provisions of IBC.

6. We expect both the IRPs/RPs to coordinate and cooperate with each other in order to preserve the assets of the Companies concerned to achieve the objective of IBC which is Resolution.

7. We don't find any reason to entertain the present Appeal. We decline to admit the Appeal.

[Justice A.I.S. Cheema]
Member (Judicial)

[Dr. Alok Srivastava]
Member (Technical)

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