

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**

**NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 170 of 2021**

**IN THE MATTER OF:**

**1. Sundeep Thakar**

S/o Late Sh. Jawahar Lal Thakar

28, 1<sup>st</sup> Floor, Phase 2,

Mohali 160055

Punjab

Mob:9825044857, Email: [thakarsundeep@yahoo.co.in](mailto:thakarsundeep@yahoo.co.in)

**...Appellant**

**Versus**

**1. Raj Ralhan**

PwC Professional Services LLP

Building 10, 17<sup>th</sup> Floor, Tower C

DLF Cyber City, Gurgaon – 122002

Mob: 9999240862, E-mail: [raj.ralhan@pwc.com](mailto:raj.ralhan@pwc.com)

Hereinafter referred to as

“Respondent/Resolution Professional/RP”

**...Respondent No. 1**

**2. Parabolic Drugs Limited**

S.C.O. 186-187 2<sup>nd</sup> Floor,

Sector 8-C, Chandigarh 160008

Email: [cs@akums.net](mailto:cs@akums.net)

Hereinafter referred to as

“Respondent No. 2/ Corporate Debtor”

**...Respondent No. 2**

**3. Akums Drugs and Pharmaceuticals Ltd.**

304 Mohan Placelsc

Sarswati Vihar

Delhi 110034

Email: [cs@Akums.Net](mailto:cs@Akums.Net)

Hereinafter referred to as

“Resolution Applicant/Respondent No. 3”

...**Respondent No. 3**

**4. JM Financial Asset Reconstruction Company Ltd.**

7<sup>th</sup> Floor, Cnergy, Appasaheb Marathe Marg,  
Prabhadevi, Mumbai- 400025.

Email: [vineet.singh@jmfl.com](mailto:vineet.singh@jmfl.com)

Hereinafter referred to as

“Committee of Creditors/Respondent No. 4”

...**Respondent NO. 4.**

**Present:**

**For Appellant: Dr. Premvir Kapoor, Mr. Anirudh, Advocates.**

**For Respondent: Mr. Sumesh Dhawan, Ms. Vatsala Kak,  
Advocates for R-1.**

**Mr. Abhishek Baid, Mr. Viren Sharma,  
Mr. Kunal Godhwani, Advocates for R-4.  
Ms. Ankita Bajpai, Advocate.**

**ORDER  
(Virtual Mode)**

**08.03.2021** Heard Learned Counsel for the Appellant. Learned Counsel submits that this Appeal has been filed as the Appellant was aggrieved by non-payment of his salary and illegal actions by the Resolution Professional. The Appellant claims that the Appellant had filed C.A.1194/2019 before the Adjudicating Authority (National Company Law Tribunal, Chandigarh) for payment of his salary or for inclusion of his salary expenses as CIRP cost in the Resolution Plan and later Appeal was filed before this Tribunal, which remanded

the matter to the Adjudicating Authority in Company Appeal (AT) (Insolvency) No. 681 of 2020 (Annexure A-2) as resolution plan was still pending adjudication. It is stated that the Adjudicating Authority was directed to provide opportunity of hearing to the Appellant before taking decision with regard to the approval of Resolution Plan which was filed by the Resolution Professional in C.A. No. 389 of 2019 in CP (IB) NO. 102/Chd/CHD/2018. It is submitted that the final impugned Order was passed by the Adjudicating Authority on 12<sup>th</sup> January, 2021 in which the Appellant has been recorded as intervener but the grievances and detailed arguments/written-submissions advanced by the Appellant before the Adjudicating Authority were not addressed, admitted nor discussed.

2. The Learned Counsel for the Appellant submits that Appellant had joined the Corporate Debtor as Vice-President on 01<sup>st</sup> August, 2018 and CIRP was admitted on 23<sup>rd</sup> August, 2018. The Learned Counsel submitted that the Appellant was entitled to salary dues of Rs. 44,78,931/- which claim was made before the Resolution Professional. It is stated that the Appellant was entitled to salary during the course of CIRP proceedings as he continued to function as the Vide-President. It is argued that Appellant got salary only for three months during CIRP and thereafter was not paid.

3. Learned Counsel for Respondent No. 1/RP submits that the services of the Appellant were not taken during the CIRP proceedings and such claim was denied. The Learned Counsel for the Respondent No. 1/RP submits that

legitimate grievances of the Appellant have been included in the Resolution Plan and also have been duly paid.

4. The Learned Counsel for the Respondent No. 1 referred to earlier Company Appeal (AT) (Insolvency) No. 101 of 2021 (Annexure A11 –Page 385) which was filed by the Appellant and it has been disposed. The Order reads as under:

*“17.02.2021: The Resolution Plan approved by the Adjudicating Authority (National Company Law Tribunal), Chandigarh Bench in respect of the Corporate Debtor in terms of the impugned order dated 12th January, 2021 is being assailed in the instant appeal by the Appellant- Mr. Sundeep Thakur who is represented by Mr. Anirudh, Advocate. On a query being put to him as to whether the claim of the Appellant as workman/ employee has been admitted or rejected, he sought time to address this Appellate Tribunal. With reference to Page 229 of the Appeal Paper Book-Vol.II, Mr. Abhinav Vashist, Senior Advocate representing the Resolution Professional submits that the claim of the Appellant in regard to Rs.4,16,210/- has been admitted by the Interim Resolution Professional. Learned counsel for the Appellant submits that this claim was in regard to Appellant’s earlier stint as employee but in his second stint he worked as Vice President and claimed amount of his salary which has not been admitted in regard to the period after commencement of Corporate Insolvency Resolution Process. Learned counsel for Respondent No.1 wants to place on record some relevant documents which do not form the part of the Appellant’s Appeal Paper Book. He is permitted to do so. Learned counsel for the Respondent No.1 has also drawn our attention to the relief clause in memo of appeal which reveals that the relief claimed is to direct the Respondents*

*to include Rs.44,78,931/- as CIRP costs along with 18% interest till date and further direct the Resolution Professional to pay salary dues (the aforesaid amount) from the reimbursement he has received working as a Resolution Professional of Corporate Debtor. We have also been taken through the grounds taken in appeal but we do not find that any ground has been pleaded to assail the approved Resolution Plan. We also find that the Committee of Creditors has not been arrayed as party Respondent. Since the appeal may be dismissed for technical deficiencies, learned counsel for the Appellant prays that he be permitted to withdraw the appeal with liberty to file fresh appeal keeping in view the grounds set out in Section 61(3) of the Insolvency and Bankruptcy Code, 2016. The appeal is accordingly dismissed as withdrawn with liberty sought being granted subject to all just legal exceptions.”*

5. The Learned Counsel for Respondent No. 1 further submits that the present Appeal is nothing but reproduction of the claims made earlier in Company Appeal (AT) (Insolvency) No. 101 of 2021. The Learned Counsel is pointing out the comparison.

6. The Learned Counsel for Appellant submits that in the last part of that Order dated 17<sup>th</sup> February, 2021, liberty was given to file fresh Appeal under Section 61(3) of IBC and thus the present Appeal is filed.

7. Going through the Appeal and hearing the submissions, what appears is that the Appellant is reagitating what is already recorded in the Order dated 17.02.2021 and only because the liberty was given, the present Appeal is filed.

The Appeal does not spell out grounds as required by Section 61 (3) of IBC and continues to agitate claims, discussed in Order dated 17.02.2021. As such, we have no reason to entertain the present Appeal.

We decline to entertain Appeal for above reasons and the Appeal is disposed.

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

**[Dr. Alok Srivastava]**  
**Member (Technical)**

Basant B./md