

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Ins) No.175-177 of 2021

[Arising out of Order dated 27.01.2021, 02.02.2021 and 08.02.2021 passed by National Company Law Tribunal, Count No.1, Mumbai Bench, Mumbai in Company Petition (IB) No.1058/MB/2017]

IN THE MATTER OF:

Before NCLT

Before NCLAT

Kotak Mahindra Bank Ltd.
27-BKC, Plot No.C-27,
Bandra Kurla Complex,
Bandra (East),
Mumbai – 400 051

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Appellant

Versus

Resolution Professional of
Unity Infraprojects Ltd.
Desai Saksena & Associates,
Chartered Accountants,
Laxmi Building,
Sir P.M. Road, Fort,
Mumbai – 400 001

RP

Respondent

For Appellant:

Shri Himanshu Bhushan, Advocate

For Respondent:

**Shri Kunal Vajani, Advocate (RP)
Shri Kunal Mimani and Shri Varun Ahuja,
Advocates**

ORDER
(Virtual Mode)

09.03.2021 Heard Learned Counsel for the Appellant and Learned Counsel for the Respondent – Resolution Professional. This Appeal has been filed by the Appellant against Orders dated 27th January, 2021 and 2nd February, 2021 and 8th February, 2021 passed by the Adjudicating Authority (National Company Law Tribunal, Court No.1, Mumbai Bench, Mumbai)

in M.A. Nos.227 of 2018, 350 of 2018 and 423 of 2020 in Company Petition (IB) No.1058/MB/2017. The grievance of the Appellant is that by these Impugned Orders, the Adjudicating Authority has once again deferred pronouncement of Orders in M.A. Nos.227 of 2018 and 350 of 2018 and erroneously directed the Committee of Creditors to consider the Application of one potential Resolution Applicant - Mantena Constructions Pvt. Ltd. It is stated that one M.A. 423 of 2020 has also been adjourned on the basis that there was no time.

The learned Counsel for the Appellant has referred to various Orders passed by this Tribunal which are as under:-

1. Order dated 15.10.2019 in Company Appeal (AT) (Ins) No.1030 of 2019 in the matter of **“The RP of Unity Infraprojects Ltd.”**
2. Order dated 10.09.2020 in Company Appeal (AT) (Ins) No.773 of 2020 in the matter of **“Unity Infraprojects Ltd.”**
3. Order dated 24.09.2020 passed in Company Appeal (AT) (Ins) No.589 of 2020 in the matter of **“Kotak Mahindra Bank Ltd. Versus Unity Infraprojects Ltd.”**

Referring to these Orders, it is stated by the learned Counsel for the Appellant that this Tribunal has time and again given various directions to the Adjudicating Authority for early disposal of M.A. 423 of 2020, M.A. 227 of 2018 and M.A. 350 of 2018. However, the I.A.s are still remaining pending. It is stated that COC (Committee of Creditors) had already passed Resolution

that the Corporate Debtor needs to be liquidated and in that context I.A. 227 of 2018 was filed. It is stated that M.A. 350 of 2018 was filed by some employees claiming that the Corporate Debtor can be sold as a going concern during liquidation.

Learned Counsel for the Appellant as well as learned Counsel for the Resolution Professional, both state that it is necessary that the Adjudicating Authority should urgently pass Orders with regard to liquidation considering provisions of Insolvency and Bankruptcy Code, 2016.

Having heard Counsel for both sides and having seen already the various Orders which were passed by this Tribunal on earlier occasions which have been referred above, we can only make a further request to the Adjudicating Authority that whatever decision it wants to take, the same be taken at the earliest.

With these observations, the present Appeals are disposed of.

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

[Dr. Alok Srivastava]
Member (Technical)

rs/md