

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Comp. App. (AT) (Ins) No. 1255 of 2022 & I.A. No. 3839 of 2022

IN THE MATTER OF:

New India Color Company Ltd.

...Appellant

Versus

Samtex Desinz Pvt. Ltd. (In CIRP) & Anr.

...Respondents

Present:

**For Appellant : Mr. Manish Raghav & Mr. Shivaansh Dixit,
Advocates.**

**For Respondents : Mr. Siddharth Shankar & Mr. Sharique Ajmal, for R-
1 & 2,**

O R D E R
(Hybrid Mode)

[Per : Justice Rakesh Kumar Jain (Oral)]

03.01.2025 This appeal is directed against the order dated 14.09.2022 passed by National Company Law Tribunal (**‘Tribunal’**) by which an Interlocutory Application bearing IA No. 2144/2022 filed in Company Petition No. (IB) – 908/ND/ 2020 by the Appellant under Section 60(5) r/w Section 73 of the Insolvency & Bankruptcy Code, 2016 (**‘Code’**) has been dismissed.

2. Shorn of unnecessary details, this court passed the following order on 16.10.2024 :-

“The applicant filed an application bearing I.A No. 2144 of 2022 in which he made the following prayers:

“a) Grant of ex-parte ad-interim stay on the working of COC during the pendency of this Application; and

- b) Suspend Resolution Professional who has acted improperly, deliberately and intentionally is a pawn in the hands of the Corporate Debtor in CIRP; and.*
- c) Investigation and inquiry in deliberate and intentional conduct of the Resolution professional Vimal Kumar and report the same to IBBI for disciplinary action against Resolution Professional; and*
- d) Declare Orator Marketing Private Limited as related Party and debar the same from COC; and*
- e) Direct fresh formation of committed of creditors as per Chapter V Regulation 16 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, and*
- f) Declare Sale of the A-36, Hosiery Complex, Block A Rd, Sector 82, Noida, Uttar Pradesh 201305 as an undervalued transaction; and g) Punish present and past director of Corporate Debtor under Sec. 73 of the IBC, and*
- h) Any other relief as the Hon'ble Tribunal may deem fit in the interest of the resolution process.”*

2. The application was dismissed by the impugned order dated 14.09.2022 and the present appeal has been filed. During the course of hearing, counsel for the appellant has restricted his prayer in this appeal through prayer (d) made in the application i.e. “Declare Orator Marketing Private Limited as related Party and debar the same from COC”.

3. During the course of hearing, counsel for the respondents have submitted that the CD namely Samtex Desinz Private Ltd. has already been dissolved in terms of

Section 54 of the IBC, 2016, vide order dated 08.07.2024 passed by Ld. NCLT, New Delhi, Bench-VI in I.A (IBC) (Dissolution) No. 08/2024 in CP (IB)-908/ND/2020, therefore, the present appeal has become infructuous.

4. Faced with this argument, counsel for the appellant prays for an adjournment to address on the issue as to whether the present appeal shall still be maintainable. On his request, adjourned to 18.11.2024.”

3. Counsel for the Appellant has submitted that though the Corporate Debtor has been dissolved under Section 54 of the Code yet the Appellant can file an application under Section 231 of the Companies Act, 2013 or Section 66 of the Code before the Tribunal.

4. On the other hand, Counsel for the Respondent has referred to a decision of this court in the case of **Sudhir Kumar Goel & Ors. Vs. M/s Shashi Oils and Fats Pvt. Ltd. & Anr.** passed in Company Appeal (AT) (Ins.) No. 676 of 2021 decided on 04.08.2022 in which it has been held that *“The role of this Appellate Tribunal is also restricted within the four walls of the ‘Code’ & passing of order under Section 54 of the Code brings the Corporate Debtor to a closed chapter”.*

5. Be that as it may, since the Corporate Debtor has already been dissolved vide order dated 08.07.2024 passed by the Ld. NCLT, New Delhi, Bench-VI in I.A (IBC), (Dissolution) No. 08/2024 in CP (IB)-908/ND/2020 the present appeal has become infructuous.

6. In so far as, the prayer of the Appellant is concerned, the Appellant may have recourse to address its grievance before any forum in accordance with law but it does not mean that any liberty has been given by this court.

[Justice Rakesh Kumar Jain]
Member (Judicial)

[Mr. Naresh Salecha]
Member (Technical)

Sim/RR