

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 659 of 2018**

**IN THE MATTER OF:**

**Harendra Singh Rathore & Ors.**

**...Appellants**

**Vs.**

**Alchemist Asset Reconstruction  
Company Ltd. & Ors.**

**...Respondents**

**Present: For Appellants: - Mr. Sanjeev Kumar Tyagi, Mr. Siddharth Chaudhary and Ms. Mansi Batra, Advocates.**

**ORDER**

**29.10.2018**— This appeal has been preferred by Harendra Singh Rathore & Ors., shareholders of ‘Hotel Gaudavan Pvt. Ltd.’- (‘Corporate Debtor’) challenging the order dated 13<sup>th</sup> December, 2017 passed by the Adjudicating Authority (National Company Law Tribunal), Principal Bench, whereby the ‘Resolution Plan’ submitted by ‘JFC Finance (India) Limited’ has been approved under Section 31 of the Insolvency and Bankruptcy Code, 2016 (‘I&B Code’ for short).

2. Learned counsel for the Appellant referring to the decision of the Hon’ble Supreme Court in ‘**B.K. Educational Services Pvt. Ltd. V/s. Parag Gupta— Civil Appeal No. 23988/17 etc.**’ submitted that

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initiation of 'Corporate Insolvency Resolution Process' was barred by limitation. It being void, the impugned order of approval of the 'Resolution Plan' cannot be accepted.

3. Admittedly, the 'Corporate Insolvency Resolution Process' against 'Hotel Gaudavan Pvt. Ltd.'- ('Corporate Debtor') was initiated on 31<sup>st</sup> March, 2017. The said order is not under challenge, therefore, no finding can be given with regard to the legality and propriety of the order dated 31<sup>st</sup> March, 2017.

4. It has also come to our notice that the order of admission of application under Section 7 filed against 'Hotel Gaudavan Pvt. Ltd.'- ('Corporate Debtor') was challenged before this Appellate Tribunal. As this Appellate Tribunal did not interfere with the said order, learned counsel for the Appellant withdrew the said case. Thereby the order of admission dated 31<sup>st</sup> March, 2017 reached the finality. While challenging the order of the approval of the 'Resolution Plan' dated 13<sup>th</sup> December, 2017, indirectly Appellant cannot challenge the order dated 31<sup>st</sup> March, 2017. Therefore, no relief can be granted.

5. Further, we find that the present appeal is barred by limitation in view of sub-section (2) of Section 61 of the 'I&B Code'. The order dated 13<sup>th</sup> December, 2017 has been challenged in this appeal filed on

10<sup>th</sup> October, 2018 i.e. much beyond the period of limitation and period allowed to this Appellate Tribunal to condone the delay.

6. In view of the aforesaid findings, we dismiss this appeal both on the ground of limitation and on merit. No cost.

(Justice S.J. Mukhopadhaya)  
Chairperson

(Justice Bansi Lal Bhat)  
Member(Judicial)

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