

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Ins.) No. 51 of 2021

IN THE MATTER OF:

**Regional Provident Fund
Commissioner – II, Rourkela
Employees’ Provident Fund
Organization,**
Regional Office: Bhavishya
Nidhi Bhawan, Pamposh
Road, Rourkela, Orissa 769004

...Appellant.

Versus

1. Shri Sumit Binani
(Resolution Professional/Liquidator of M/s.
Adhunik Metaliks Limited)
Lansdowne Towers, 2/1A,
Sara Bose Road, Kolkata
700020, West Bengal.

Also at

Room No. 6, 4th Floor, 2A,
Ganesh Chandra Avenue,
Commerce House, Kolkata 700013

...Respondent No. 1.

2. Liberty House Group Metal Two Pvt. Ltd.

Regd Office: AT-Chadrihariharpur,
PO- Kuarmunda,
DIST- Sundargarh – 770039
Email Id: adhunik@libertysteelgroup.in,
Anil.gole@gfgalliance.com,
Nirmal.sinha@Libertysteelgroup.in,
Uday.Gupta@GFGalliance.com
Phone: 9769992470

Also at

Corporate Office: Maker Chamber No. 6 Office No. 86
8TH Floor, 220 Jamnalal Bajaj Marg,
Nariman Point, Mumbar-400021
Phone: 022-49785714

...Respondent No. 2.

Present:

For Appellant: Mr. Manish Dhir, Advocate.

**For Respondent: Mr. Sumit Binani, Party in Person-R-1.
Mr. Arvind Kumar Gupta and Ms. Shivani Gupta,**

Advocates for R-2.
Ms. Henna George, Caveator, R-2.

ORDER
(Virtual Mode)

27.01.2021 Heard Learned Counsel for the Appellant.

2. This Appeal has been filed against Impugned Order dated 17th July, 2018 (Annexure-A Page 45) vide which the Adjudicating Authority (National Company Law Tribunal, Cuttack Bench) had approved the Resolution Plan in the matter of M/s. Adhunik Metaliks Ltd.-Corporate Debtor.

3. It is stated that after this Order dated 17th July, 2018 was passed the Adjudicating Authority had passed orders dated 09th July, 2019 (Annexure-C Page 84) and by that order the Adjudicating Authority held that Resolution Plan has failed and Liquidation Order was passed. It is stated that thereafter there was Company Appeal (AT) (Ins.) No. 724 of 2019 filed (Annexure-B Page 67) and by Order dated 3rd March, 2020 passed by this Tribunal, the Resolution Plan dated 17.07.2018 was restored. Learned Counsel for Appellant states that there is correspondence available to show that the Appellant had moved the Liquidator with claims of the provident fund but the Liquidator said that the Resolution Plan has been restored and so he is no more the Liquidator. The Successful Resolution Applicant is the Respondent No. 2. Learned Counsel for the Appellant states that because of this reason, the Appellant could not challenge the earlier Resolution Plan when it was passed due to intervening developments.

4. Having gone through the material on record, it is apparent that the Impugned Order dated 17.07.2018 was passed and thereafter it came to set aside after almost one year on 09th July, 2019. If the Appellant had grievances with regard to Resolution Plan approved, the Appellant never filed Appeal during that time. As such, for such reasons, the intervening incidents would not be relevant for consideration. As per Section 61 (2), the Period of Appeal is 30 days and this Appellate Tribunal has jurisdiction to condone only 15 days. Considering this, the Appeal is time-barred.

The Appeal is dismissed as time-barred.

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

[Dr. Ashok Kumar Mishra]
Member (Technical)

Basant B./md.