

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Ins) No. 526 of 2020

IN THE MATTER OF:

Maxsun Marine Services FZE

...Appellant

Versus

Dolphin Offshore Enterprises (India) Ltd.

...Respondent

For Appellant: Mr. Farhat Warsi, Advocate

For Respondent: Mr. Abhinav Goyal, Advocate (for IRP)

ORDER
(Virtual Mode)

11.11.2020 Heard Advocate Mr. Farhat Warsi for the Appellant – Operational Creditor. On behalf of the Respondent – Corporate Debtor, Advocate Mr. Abhinav Goyal appeared. He states that he is appearing for the Corporate Debtor through Resolution Professional. The learned Counsel for the Resolution Professional submits that against the same Corporate Debtor – Dolphin Offshore Enterprises (India) Ltd. in another CP No.4087/I&B/2018 which was filed by Supreme Hydro Engineering Pvt. Ltd., the Adjudicating Authority (National Company Law Tribunal, Mumbai) has on 16th July, 2020, admitted the Application under Section 9 of Insolvency and Bankruptcy Code, 2016 (IBC – in short) and CIRP (Corporate Insolvency Resolution Process) has been initiated. The learned Counsel states that COC (Committee of Creditors) has been constituted in that matter and RP has been appointed for whom he is appearing.

As CIRP has already been initiated against the Corporate Debtor, the Appellant – Operational Creditor would be at liberty to approach the Resolution Professional and file claim. The learned Counsel for Appellant submits that direction may be given to the RP to consider the claim of the Appellant without being influenced by the present Impugned Order.

We permit the Appellant to approach the Resolution Professional – Mr. Vineet Gungwal and make their claim as per provisions of law. The Resolution Professional will process the claim to be made by the Appellant without being influenced by the present Impugned Order passed in CP No.421/I&B/2018 by the Adjudicating Authority on 2nd January, 2020.

We dispose the present Appeal for above reasons and give liberty to the Appellant to approach this Tribunal for reviving the Appeal in case the CIRP initiated in CP No.4087/I&B/2018, for any reasons, gets disposed in terms of Section 12A of IBC.

Disposed accordingly. No costs.

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

[V.P. Singh]
Member (Technical)

rs/ns