

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 50 of 2020

IN THE MATTER OF:

Raman Agarwal

...Appellant

Versus

**Mohit Chawla & Ors.
Resolution Professional
J.R. Agro Tech Pvt. Ltd.**

...Respondent

Present:

For Appellant : **Mr. N.P.S. Chawla, Mr. Sujoy Dutta and Mr. Surekh
K. Baxy, Advocates**

For 1st Respondent: **Mr. Nitesh Jain and Mr. Sarthak Sharma, Advocates**

O R D E R

10.01.2020 Learned counsel for the Appellant submits that the Appellant has grievance against the impugned order dated 27th November, 2019 limited to CA No. 543 of 2019 wherein the Appellant/Promoter/Shareholder raised objection with regard to the maintainability of the application filed by the 'Resolution Professional' / 'Liquidator' under Sections, 43, 45 and 66 of the 'Insolvency and Bankruptcy Code, 2016 (**'I&B Code'**, for short).

Mr. Nitesh Jain, learned counsel appearing on behalf of the 'Resolution Professional' submits that the 'Promoter'/'Shareholder' cannot object to filing of the application under Sections 43, 45 and 66 of the 'I&B Code'.

In reply, it is submitted that the objection of the Appellant is that the application under Sections 43, 45 and 66 is not maintainable as no 'preferential transactions' or 'under value transactions' were made by the 'Corporate Debtor'.

However, as it has not yet been decided by the Adjudicating Authority, we allow the Adjudicating Authority (National Company Law Tribunal), Chandigarh Bench, Chandigarh to pass appropriate order on the application filed under Sections 43, 45 and 66 of the 'I&B Code', after giving opportunity to the parties to file their respective replies, including the Appellant. It will be open to the Appellant to show that the transactions were not 'preferential transactions' or 'under value transactions', based on the record.

The appeal stands disposed of with aforesaid observations.

At this stage, we may mention that there is no provision to file any company application under the 'National Company Law Tribunal Rules, 2016'. Henceforth, the Adjudicating Authority (National Company Law Tribunal) of the country will never entertain the company applications in insolvency matters as Interlocutory Applications are maintainable under the 'I&B Code'.

Let a copy of this order be communicated to Principal Bench, National Company Law Tribunal, New Delhi and all the Benches of the National Company Law Tribunal and bring it to the notice of the Registry and all the Hon'ble Members of the National Company Law Tribunal.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansilal Bhat]
Member (Judicial)

/ns/gc/

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