

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

I.A. No. 30 of 2018

In

Company Appeal (AT) (Insolvency) No. 101 of 2017

IN THE MATTER OF:

M/s. Shilpi Cable Technologies Ltd.

...Appellant

Vs.

Macquarie Bank Ltd.

...Respondent

Present: For Appellant:- Mr. Abhinav Vashisht, Senior Advocate with Mr. Sumit K. Batra, Mr. Apoorv Saxena, Mr. Mukul Gupta, Ms. Priya Singh and Ms. Bandana Kaur Grover, Advocates.

For Respondent:- Mr. Vivek Sibal, Ms. Pooja M. Saigal and Jasmine Kottai, Advocates.

ORDER

22.01.2018- The Respondent- Macquarie Bank Limited preferred application under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "I&B Code") which was admitted by the Adjudicating Authority (National Company Law Tribunal), Principal Bench, New Delhi, by orders both dated 24th May, 2017 passed in C.P.No. (IB)-64(PB)/2017 and in C.P. No. (IB)-65(PB)/2017. Both the aforesaid orders were challenged before this Appellate Tribunal in Company Appeals (AT) (Insolvency) Nos. 101 & 102 of 2017. By common order dated 1st August, 2017, both the orders dated 24th May 2017, were set aside by this Appellate Tribunal for the grounds mentioned therein.

2. The Respondent- Macquarie Bank Limited ('Operational Creditor')

Contd/-.....

thereafter moved before the Hon'ble Supreme Court in "**Macquarie Bank Limited Vs. Shilpi Cable Technologies Ltd.**" –Civil Appeal No. 15135 of 2017, wherein the Hon'ble Supreme Court set aside the order passed by this Appellate Tribunal and restored the order passed by the Adjudicating Authority. In view of the restoration of the original order, the Resolution Professional filed the present petition for clarification as to how the period of 180 days to be computed for completing the 'Resolution Process'.

3. On 15th January, 2018, this Appellate Tribunal passed following order:

"Let notice be issued on Respondent. Mr. Vivek Sibal, Advocate accepts notice on behalf of Respondent-'Operational Creditor'. No further notice need be issued to him.

Post the matter on 22nd January, 2018.

In the meantime, 'Interim Resolution Professional' will file an additional affidavit enclosing the copies of the orders passed by the Adjudicating Authority (National Company Law Tribunal) including the order dated 19th December, 2017. The 'Interim Resolution Professional'/Resolution Professional will continue and complete the process from the stage when 'Interim Resolution Professional' left the process in view of the order passed by this Appellate Tribunal."

4. We have heard learned counsel appearing on behalf of the 'Insolvency Resolution Professional' and learned counsel appearing on behalf of the Respondent- Macquarie Bank Limited ('Operational Creditor') and perused the decision of the Hon'ble Supreme Court in **"Macquarie Bank Limited Vs. Shilpi Cable Technologies Ltd."** Taking into consideration the fact that because of the order passed by this Appellate Tribunal on 1st August, 2017, the 'Resolution Professional' could not function. Now, pursuant to the Hon'ble Supreme Court order as the 'Resolution Professional' has resumed the office on 3rd January, 2018 and allowed to function pursuant to this Appellate Tribunal's interim order dated 15th January, 2018, we hold that the period from 1st August, 2017 to 14th January, 2018 will not be counted for the purpose of counting total period of 180 days for completing the 'Resolution Process'. In case the 'Resolution Process' is not completed within 180 days, even after excluding the period aforesaid, it will be open to the 'Committee of Creditors'/ 'Resolution Professional' to request the Adjudicating Authority for more time.

I.A. No. 30 of 2018 stands disposed of.

(Justice S.J. Mukhopadhaya)
Chairperson

(Justice Bansi Lal Bhat)
Member(Judicial)

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