

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Ins) No.849 of 2019

IN THE MATTER OF:

Cane Development Council

...Appellant

Versus

Oriental Bank of Commerce & Anr.

...Respondents

Present:

**For Appellant: Shri Bikash Mohantay and Shri A.A. Thakur,
 Advocates**

For Respondent: None

O R D E R

22.08.2019 Having heard learned Counsel for the Appellant and being satisfied with the grounds, the delay of 15 days in preferring the Appeal is condoned. Interlocutory Application No.2581 of 2019 stands disposed of.

Oriental Bank of Commerce (Financial Creditor) filed an Application under Section 7 of Insolvency and Bankruptcy Code, 2016 (I&B Code - in short) for initiation of corporate insolvency resolution process against M/s. NCS Sugars Ltd. (Corporate Debtor). In the said case, the Appellant filed an Application under Section 60(5) read with Rule 11 of the NCLT Rules, 2016 to implead the Appellant as Respondent No.2 and to keep the Company Petition in abeyance till the crushing season is over and to overcome all existing operations as thousands of farmers and their families are dependent on the factory of the Corporate Debtor.

The Adjudicating Authority (National Company Law Tribunal), Hyderabad Bench, Hyderabad rejected the Application as not maintainable as no third party intervention is required at the stage of admission of the Application under Section 7 or 9 of the I&B Code. Learned Counsel for the Appellant submits that

the case has now been heard on merits and Order has been reserved by the Adjudicating Authority. Similar plea has been taken before this Appellate Tribunal that the matter should have been kept in abeyance till the crushing season is over and to overcome all existing operations as the farmers and their families are dependent on the Corporate Debtor.

Apart from the fact that the crushing season is over, but even if we accept that each year there may be crushing season and famers are dependent on the Corporate Debtor, that cannot be ground to keep any proceeding pending. If the Application under Section 7 is admitted, in such case also, the Interim Resolution Professional is bound to keep the Corporate Debtor as going concern and in such case for the purpose of keeping the factory going concern, it has to be dependent on the farmers for crushing of the sugarcane. In such case, neither the employees/workmen will be affected nor the farmers.

The Appeal stands disposed of.

[Justice S.J. Mukhopadhaya]
Chairperson

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

[Kanthi Narahari]
Member (Technical)

/rs/gc