

NATIONAL COMPANY LAW APPELLATE TRIBUNAL**NEW DELHI****COMPANY APPEAL(AT)(INSOLVENCY) NO.451 OF 2018****IN THE MATTER OF:**

Medisetty Venkata Rattaiah
74-14-49 Yanamalakuduru,
Lock ula Road,
Krishna Nagar,
Vijayawada 520007
Andhra Pradesh

Appellant

Vs

1. S. Muthu Raju
3, Sundaram Brothers Layout,
Opp to All India Radio, Trichy Road,
Ramanathapuram
Coimbatore 641045
2. VST Weavers India Pvt Ltd,
31 E, KR PAD Road,
Pallipalayam,
Erode 638006
Tamil Nadu
3. State Bank of India,
Stressed Assets Management Branch II
3-4-1013/A, 1st Floor,
TSRTC Bus Station,
Kachiguda
Hyderabad 500027
Telangana State
4. Spads Texiles Ltd
74-14-49, Yanamalakuduru
Vijayawada 520007
Andhra Pradesh.

Respondents

For Appellant:- Mr.A.S. Sathish Kumar, PCS.

For Respondents:- Mr. A. Lakshminarayan, Advocate for R2.

ORAL JUDGEMENT
(7th FEBRUARY, 2019)

Per: A.I.S. Cheema, J:

Heard PCS for the appellant. This appeal has been filed by the appellant who is one of the shareholders of 4th Respondent, corporate debtor, who filed this appeal against the interim order dated 26.7.2018 passed by National Company Law Tribunal, Hyderabad Bench, Hyderabad in IA No.249/2018 in CP(IB) 171/9/HDB/2017. A copy of that order is at Page 38 and reads as under:-

“IA No.249/2018, listed today for hearing.

Counsel for respondent/Operational Creditor filed counter.

Heard both sides.

List the matter for orders on 07.08.2018.

2. The PCS accepts that the petition under Section 9 of the Insolvency & Bankruptcy Code, 2016 (I&B Code in short) was admitted on 1.6.2018. The appeal shows Appellant received copy of order dated 1.6.2018 on 9.6.2018. Present appeal filed on 8.8.2018. If it was to be filed against order dated 1.6.2018 would clearly attract question of limitation. It is stated that the appellant after order dated 1.6.2018 filed IA No.249/2018 in NCLT on 6.7.2018 to set aside order admitting the petition. Apparently the impugned order did not decide anything as such and on hearing the IA, Adjudicating Authority had simply posted the matter for orders.

3. It is stated that after the impugned order, subsequently on 10.8.2018 Adjudicating Authority passed orders rejecting the IA. The present appeal is not against the order dated 10.8.2018. The appellant attached that copy of the order with disposed application IA No.1229 of 2018 filed vide Diary No.6584 on 17.8.2018 which was basically application for substitution. As per Section 61 of I&B Code the period of appeal is 30 days which can be extended by the NCLAT by 15 days if it is satisfied that there was sufficient cause. The appellant has now filed IA No.68/2019 to amend the appeal memo to set aside all orders passed by the Adjudicating Authority in IA No.249/2018 including the order dated 1.6.2018. This IA No.68/2019 has been filed on 7.1.2019.

4. We do not think such IA No.68/2019 can be allowed. The present appeal which is basically against the impugned order dated 26.7.2018 deserves to be rejected as the impugned order dated 26.7.2018 had not decided anything in particular. There is no reason to further entertain this appeal. Subsequent order dated 10.8.2018 cannot be challenged by amending the introductory part of the appeal which again attracts question of limitation.

5. There is no substance in the appeal. The appeal is rejected. Interim applications stand disposed off.

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

(Mr. Balvinder Singh)
Member (Technical)

Bm/nn