

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 66 of 2020

IN THE MATTER OF:

S.A. Pharmachem Pvt. Ltd. ...Appellant

Vs.

Alok Industries Ltd. & Ors. ...Respondents

Company Appeal (AT) (Insolvency) No. 67 of 2020

IN THE MATTER OF:

M/s. Prime Marketing ...Appellant

Vs.

Alok Industries Ltd. & Ors. ...Respondents

Company Appeal (AT) (Insolvency) No. 69 of 2020

IN THE MATTER OF:

Sadhana Trading Corporation ...Appellant

Vs.

Alok Industries Ltd. & Ors. ...Respondents

Company Appeal (AT) (Insolvency) No. 70 of 2020

IN THE MATTER OF:

M/s. Eighteen Acid & Chemicals Enterprise ...Appellant

Vs.

Alok Industries Ltd. & Ors. ...Respondents

Contd/-.....

Company Appeal (AT) (Insolvency) No. 71 of 2020

IN THE MATTER OF:

C.M.S. Impex (India) Pvt. Ltd. ...Appellant

Vs.

Alok Industries Ltd. & Ors. ...Respondents

Company Appeal (AT) (Insolvency) No. 73 of 2020

IN THE MATTER OF:

Apna Organics Pvt. Ltd. ...Appellant

Vs.

Alok Industries Ltd. & Ors. ...Respondents

Company Appeal (AT) (Insolvency) No. 74 of 2020

IN THE MATTER OF:

Associate Chemicals & Ors. ...Appellants

Vs.

Alok Industries Ltd. & Ors. ...Respondents

Present: For Appellant: - Mr. Akshay Sapre and Mr. Ankit Kumar Lal, Advocates.

For Respondents:- Mr. Ramji Srinivasan, Senior Advocate with Mr. Raghav Shankar and Ms. Sylona Mohapatra, Advocates for R-3.

Ms. Sneha Janaki Raman, Mr. Prateek Kumar and Mr. Nihanjan S. Rao, Advocates for CoC.

Mr. Arun Kathpalia, Senior Advocate with Ms. Misha, Mr. Vaijayant Paliwal and Mr. Nikhil Mathur, Advocates for RP.

O R D E R

22.01.2020— The Appellant(s)- ('Operational Creditors') have preferred these appeals against the order dated 18th November, 2019 passed by the Adjudicating Authority (National Company Law Tribunal), Ahmedabad Bench, Ahmedabad, rejecting their Interlocutory Applications for payment of 'Corporate Insolvency Resolution Process Costs'.

2. In the 'Corporate Insolvency Resolution Process' of 'M/s. Alok Industries Limited'- ('Corporate Debtor'), the 'Resolution Plan' was approved by the Adjudicating Authority on 8th March, 2019. During the implementation of the 'Resolution Plan', the Interlocutory Applications were filed by the Appellant(s).

3. Learned counsel for the Appellant submits that the 'Operational Creditors' supplied goods during the 'Corporate Insolvency Resolution Process' to keep the Company as a going concern. For the first time, the 'Resolution Professional' by e-mail dated 21st November, 2018 directed the settlement of payments made during the month of October-November, 2018 against the current invoices. This has erroneously been noted as e-mail dated 25th October, 2018 in the impugned order.

4. Subsequently, by order 8th March, 2019, the 'Resolution Plan' was approved by the Adjudicating Authority. It was at this stage for the first

time that the Appellant(s) came to know a sum had been set aside for payment of 'Corporate Insolvency Resolution Process' and thereafter on the basis of verbal information, it had an apprehension that the amounts due against the goods supplied during the 'Corporate Insolvency Resolution Process' period, 'Interim Resolution Professional' cost would not be paid to him and in fact the payments made against 'Pre-Corporate Insolvency Resolution Process' invoices would be set-off against the same.

5. Mr. Ramji Srinivasan, learned Senior Counsel appearing on behalf of 3rd Respondent-'Reliance Industries Limited' ('Successful Resolution Applicant') and Mr. Arun Kathpalia, learned Senior Counsel appearing on behalf of the 'Resolution Professional' oppose the Appellant(s). It is submitted that the 'Resolution Plan' has taken care of 'Corporate Insolvency Resolution Process Costs' and fees of the 'Resolution Professional'/'Interim Resolution Professional'. The Monitoring Committee is monitoring the matter and whatever the amount due to one or other 'Operational Creditors' for the period prior to the date of initiation of the 'Corporate Insolvency Resolution Process' and during the 'Corporate Insolvency Resolution Process' has been taken care of and noticed by the Adjudicating Authority.

6. The order dated 8th March, 2019 by which the 'Resolution Plan' was approved by the Adjudicating Authority is not under challenge in these appeals. In absence of any challenge, the said plan has reached finality.

After the plan has reached finality, it is binding on all the stakeholders including the 'Operational Creditors', 'Financial Creditors' and others. How the distribution is to be made on the basis of the approved plan is for the Monitoring Committee to see. No individual decision can be given either by the Adjudicating Authority or by this Appellate Tribunal on the basis of individual claim of one or other 'Operational Creditors', 'Financial Creditors' and others after such approval, once the matter is brought to the notice of the Adjudicating Authority and this Appellate Tribunal by the 'Resolution Professional' on behalf of the Monitoring Committee that the 'Corporate Insolvency Resolution Process Costs' have been paid.

7. The 'Resolution Plan' once approved and reached finality, all the dues stand cleared in terms of the plan and now no issue can be raised before any Court of Law or Tribunal.

All the appeals are dismissed. No costs.

(Justice S.J. Mukhopadhaya)
Chairperson

(Justice Bansi Lal Bhat)
Member(Judicial)

(Justice Anant Bijay Singh)
Member(Judicial)

Ar/RR