

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 167 of 2020

IN THE MATTER OF:

The Assistant Provident Fund Commissioner & Recovery Officer, Employees Provident Fund Organization Versus Florind Shoes Pvt. Ltd. (CD) & Ors.	...Appellant ...Respondents
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Present:

For Appellant: Ms. Asha Gopalan Nair, Ms. Nivedita Nair and Mr. Shedman Ali, Advocates.

O R D E R

28.01.2020 Having heard learned counsel for the Appellant and being satisfied with the grounds projected, the delay of 02 days in preferring the Appeal, beyond the prescribed period of 30 days, is condoned.

Interlocutory Application No. 413 of 2020 stands disposed of.

After hearing learned counsel for the Appellant for a while we find that the claim sought to be enforced by the 'Corporate Debtor' has been rightly declined by the Adjudicating Authority (National Company Law Tribunal) Division Bench, Chennai as in terms of provisions of Section 36 (4) (d) of the 'Insolvency and Bankruptcy Code, 2016' assets of its subsidiary did not fall within the ambit of liquidation Estate. Learned counsel for the Appellant vehemently tried to stress that under sub-Section 3(a) of section 36 of the 'Insolvency and Bankruptcy Code, 2016' assets over which the 'Corporate Debtor' has ownership right including all rights and interests herein as evidenced in the balance sheet of the 'Corporate Debtor' or an information utility etc. comprise the liquidation

Estate of 'Corporate Debtor'. However, the provision itself has been subjected to the exclusion clause engrafted in sub-Section 4 and assets of subsidiary of the 'Corporate Debtor' are not included in the liquidation Estate.

Hence, we find no merit in this Appeal, accordingly the same is dismissed.

[Justice Bansi Lal Bhat]
Member (Judicial)

[Vijai Pratap Singh]
Member (Technical)

[Shreesha Merla]
Member (Technical)

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