
(2022) 04 NCLT CK 0032

In the National Company Law Appellate Tribunal

Case No : IA 1377/ND/2022 IN IB No. 1007/ND/2020

M/s Sunpack India

APPELLANT

Vs

M/s Kanodia Technoplast Ltd

RESPONDENT

Date of Decision : 12-04-2022

Acts Referred:

Insolvency and Bankruptcy Code, 2016 — Section 9

Citation : (2022) 04 NCLT CK 0032

Hon'ble Judges : Dharminder Singh, Member (J); Sumita Purkayastha, Member (T)

Bench : Division Bench

Final Decision : Allowed

Judgement

Dharminder Singh, Member Judicial

1. The present application has been filed by the applicant operational creditor under rule 11 of NCLT Rules, 2016 for revival of petition.
2. As per the averments made in the application that the applicant is the Operational Creditor in the petition no. IBC/ 1007(ND)2020 which was filed under Section 9 of Insolvency and Bankruptcy Code, 2016 for initiation of Corporate Insolvency process against Corporate Debtor M/s Kanodia Technoplast Limited.
3. Further, it is submitted that this Tribunal vide order dated 08.03.2022, admitted the Petition bearing IB No.548/ND/2020 against the same Corporate Debtor initiating CIRP and the main IB No.1007/ ND /2020 was also disposed of on same date being infructuous. However, the 1B No.548/ND/2020 was dismissed as withdrawn vide order dated 16.03.2022 as the operational creditor in TB No.548/ND/2020 settled the matter. It is also submitted that vide the same order dated 16.03.2022 liberty was granted to the claimants, who had filed Company Petitions against the same Corporate Debtor to get revive their respective applications, hence prayed for the revival of the main IB matter.

4. Heard record has been thoroughly perused. No doubt IB No.548/ND/2020 was admitted vide order dated 08.03.2022. In view of the same TB No.1007/ND/2020 was disposed of with directions to the petitioner to file their claim before Ld. IRP appointed in TB No.548/ND/2020. Accordingly, the present petition was treated as infructuous. However, vide the same order dated 16.03.2022 the liberty was granted to the petitioner to seek revival of the petition. Admittedly, the parties in TB No.548/ND/2020 had settled the matter after initiating the CIRP proceedings but before the constitution of the CoC. Resultantly, the TB No.548/ND/2020 was dismissed as withdrawn and Corporate Debtor came out of rigour of CIRP proceedings. After settlement done in IB No.548/ND/2020 the present petitioner who was relegated to file claim before the IRP left with no alternative but to file the present application. It is settled principal of law that the operational creditor, was directed to file their claim could not be allowed to suffer after withdrawal of CIRP proceedings. Taking into the consideration of the above stated facts, this Tribunal is of the view that the present petitioner is entitled to seek revival in view of the above facts.

5. Accordingly, the present application stands allowed, the main petition IB No.1007/ND/2020 stands restored to its original position.

6. Pleadings in the IB No.1007/ND/2020 are already complete. Let the matter be fixed for arguments.

Hence, list the main TB No.1007/ND/2020 on 22.04.2022 for further proceeding.

Serve the copy of the order to the parties.