

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Ins) No.938 - 939 of 2019

IN THE MATTER OF:

Jagwani Group of Industries Pvt. Ltd. & Anr.

...Appellants

Versus

Aryavart Chemicals Pvt. Ltd. & Ors.

...Respondents

Present:

For Appellants: Advocate present but did not mark appearance

For Respondents: None

O R D E R

11.09.2019 This Appeal has been preferred by Jagwani Group of Industries Pvt. Ltd. along with Harish Bhagwandas Jagwani, Director of the Jagwani Group of Industries Pvt. Ltd. against Order dated 19th March, 2018 passed by the Adjudicating Authority (National Company Law Tribunal, Mumbai Bench). By the said Order, an Application under Section 9 of Insolvency and Bankruptcy Code, 2016 (I&B Code – in short) filed by M/s. Panama Petrochem Limited (Operational Creditor) was admitted against Aryavart Chemicals Pvt. Ltd. (Corporate Debtor). The Appellant has also challenged the Order dated 15th April, 2019 passed by the Adjudicating Authority whereby the plan submitted in exercise with powers conferred by Section 29A, the resolution plan approved by Committee of Creditors has been approved. Learned Counsel appearing on behalf of the Appellant submits that as Appellant entered into an agreement for sale with the Corporate Debtor on 16th March, 2018, pursuant to which the land in

question was required to be transferred in terms of the said agreement, a sum of Rs.30 Lakhs was paid against sale consideration of Rs.3 Crores for which mode of payment have been shown in the said agreement.

It is submitted that the Appellant had no knowledge about the initiation of the corporate insolvency resolution process which was initiated on 19th March, 2018. The Appellants had also no knowledge of the Impugned Order dated 15th April, 2019.

However, such submissions cannot be accepted, in view of terms of agreement as placed on record by the Appellants. From the said agreement dated 16th March, 2018, we find that the complete sale transaction was to be made and absolute sale deed was to be executed by the end of 31st May, 2018 or within 30 days of the transfer letter duly signed by M.I.D.C. Dhule. Naturally, one will expect that Appellants, on execution of the sale deed would have moved the Corporate Debtor on the basis of terms of agreement of absolute sale deed which was to be completed on 31st May, 2018. The Corporate Debtor had proceeded on corporate insolvency resolution process having been initiated on 19th March, 2018. Assets and records of the Corporate Debtor came under the management of the Interim Resolution Professional/Resolution Professional and it would be believed that for about 100 days, the Appellant had no knowledge of the same. In any case, proviso to sub-Section (2) of Section 61 of the I&B Code does not empower the

Appellate Tribunal to condone the delay beyond 15 days after the expiry of the period of 30 days, if it is satisfied that there is sufficient cause shown. Therefore, we are not inclined to grant any relief. However, this Order will not come in the way of Appellant to move the appropriate authority for relief.

The Appeal is dismissed for the aforesaid reasons.

[Justice S.J. Mukhopadhaya]
Chairperson

[Kanthi Narahari]
Member (Technical)

/rs/sk