

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**NEW DELHI**

**Company Appeal (AT) (Ins) No.741 of 2019**

**IN THE MATTER OF:**

**Sajeve Bhushan Deora**

**...Appellant**

**Versus**

**Axis Bank Ltd. & Ors.**

**...Respondents**

**For Appellant:**

**Shri Sajeve Deora - RP  
Miss Arunima Bhattacharjee for RP**

**For Respondents:**

**Ms. Vanika Gupta, Advocate (Respondents 1 & 2)  
Shri Rohit Bhagat and Shri Saurabh Chadda,  
Advocates (Respondent No.3)**

**O R D E R**

**14.11.2019**        Heard the learned Resolution Professional who is present in person and is the Appellant. This Appeal has been filed by the Resolution Professional claiming that for keeping the Corporate Debtor – Noslar International Limited a going concern, he had filed CA 622/2019 before the Adjudicating Authority (National Company Law Tribunal, New Delhi Bench) asking for directions to the Respondents 1 and 2 to release the margin money held as Fixed Deposits against letters of credits established by Axis Bank on behalf of the Corporate Debtor. When Application on this count came up before the Adjudicating Authority. The Adjudicating Authority passed the following Order:-

**“ORDER**

CA 622/2019 has been filed by the RP praying for directions to the Axis Bank to release the money kept as security. The same is required to meet the CIR costs.

The assets of the company, liquid or fixed should not be dissipated and shall be taken into consideration at the liquidation stage. The CIR costs should be met by the COC. At this stage we do not consider that the prayer of the RP should be allowed.

This petition is therefore being dismissed.”

In view of directions given on 6<sup>th</sup> November, 2019, the Appellant has filed Affidavit giving particulars of the funds and resources available with the Corporate Debtor. The Appellant states that the Corporate Debtor was not in production when CIRP process was initiated and he has tried to make part of the Corporate Debtor functional but that did not yield much. It is stated that it was thus, necessary to utilize the resources available and thus, the Application was filed with the Adjudicating Authority but the Adjudicating Authority did not agree to give directions to the Axis Bank.

The Appellant states that today is the last date for this CIRP process even if the 90 days’ window given by an amendment made to Section 12 in 3<sup>rd</sup> Proviso is considered. It is stated that no Resolution Plan has been approved as yet. The learned Resolution Professional fairly states that in the circumstances as now appearing, liquidation is appearing to be unavoidable.

Having gone through the submissions made and the Impugned Order and the developments as appearing where the Company is likely to go in liquidation, we do not think that at the stage, we should interfere with the Impugned Order where the Adjudicating Authority took a conscious decision not to dissipate the assets of the Company. As per Section 25 of Insolvency and Bankruptcy Code, 2016, Resolution Professional has duty to preserve and protect the assets of Corporate Debtor including the continued business operations and for the purpose, interim finance can be raised subject to approval of COC. Adjudicating Authority directed that CIR costs should be met by COC. There is nothing wrong in this.

In the circumstances, we dispose of this Appeal and the Appellant may take further steps in the process before the Adjudicating Authority in terms of the provisions of the IBC. As directed by Adjudicating Authority, it can consider the question of conversion of security in Liquidation stage, if that stage arrives. Appeal is disposed with directions as above.

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

[Kanthi Narahari]  
Member (Technical)

/rs/md