

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 711 of 2020

IN THE MATTER OF:

**Alchemist Asset Reconstruction
Company Ltd.**

...Appellant

Versus

**Manoj Garg
(Resolution Professional, Sunar Jewels
Pvt. Ltd.) & Anr.**

...Respondents

Present:

For Appellant : Mr. Milan Singh Negi, Advocate

For Respondents : Mr. Manoj Garg, Advocate

ORDER
(Through Virtual Mode)

26.08.2020 The Appellant, claiming to be lawful assignee of the debt owed by the Corporate Debtor to Karnataka Bank Limited is aggrieved of upholding of rejection of its claim to the extent of charging penal interest against the Corporate Debtor by the Adjudicating Authority (National Company Law Tribunal), New Delhi Principal Bench in terms of impugned order dated 4th March, 2020 which is being assailed on the ground that the penal interest was chargeable at the rate of 3% as per the sanction letter on the excess drawings.

2. After hearing learned counsel for the Appellant we find that the Resolution Professional has already admitted claim of Appellant for an amount of Rs. 65,81,74,830/- and rejected the remaining part of the claim which related to penal interest, expenses incurred and the difference of amount paid by the Corporate Debtor. It appears that the penal interest at

3% was leviable on excess drawing/temporary overdraft limit before assignment of debt to the Appellant (Assignee) and charging of such penal interest against the Corporate Debtor after assignment of debt would be a component of debt not covered by the assignment. Besides it is not a crystallised debt in the hands of the Appellant (Assignee). Viewed in this context, the claim cannot be said to have been arbitrarily rejected.

3. There being no legal infirmity in the order of the Adjudicating Authority, we decline to interfere. The appeal is dismissed at the very threshold stage.

[Justice Bansi Lal Bhat]
Acting Chairperson

[Justice Anant Bijay Singh]
Member (Judicial)

[V.P. Singh]
Member (Technical)

/ns/gc/