

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 1863 of 2024

IN THE MATTER OF:

Abhishek Singh,
Suspended Director of Manpasand Beverages Ltd. ...Appellant

Versus

Yoginkumar Ashokbhai Patel & Anr. ...Respondents

Present:

For Appellant : Mr. Abhijeet Sinha, Sr. Advocate with Mr. Himanshu Satija, Mr. Harsh Saxena, Ms. Heena Kochar, Mr. Shevaaz Khan, Advocates.

For Respondents : Mr. Gaurav Mitra, Sr. Advocate with Mr. Abhishek Devgan, Advocate for R-1.

**Ms. Srishty Kaul, Ms. Roopsee Pandita, Advocates
for Applicant in I.A. No.4228 of 2025.**

ORDER (Hybrid Mode)

08.08.2025: **I.A. No.4228 of 2025:** This application has been filed by National Stock Exchange of India Ltd. Learned counsel for the Applicant submits that the Applicant be permitted to withdraw the application. Prayer is allowed. Application I.A. No.4228 of 2025 is dismissed as withdrawn.

2. Heard learned counsel for the Appellant as well as learned counsel appearing for the Respondent. This appeal has been filed against order dated 24.09.2024 passed by the Adjudicating Authority (National Company Law Tribunal), Division Bench, Court-I, Ahmedabad admitting Section 7 application filed by the Respondent No.1 herein.

3. When the appeal was taken on 26.09.2024, submission was made by the Appellant that Corporate Debtor could not appear and the Adjudicating

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Authority proceeded ex-parte. It was submitted that however, the Appellant is ready to deposit the amount in an interest bearing account. An interim order was passed on 26.09.2024 permitting the Appellant to deposit the amount of Rs.2,65,00,000/-.

4. Learned counsel for the Appellant submits that the order passed by the Adjudicating Authority is an ex-parte order. It is submitted that the CP (IB) No. 129 of 2023 was disposed of on 01.05.2024 noticing that the CIRP against the Corporate Debtor has already commenced on 11.09.2023, which order was challenged in the appeal. Financial Creditor (Respondent No.1 herein) was given liberty to re-agitate, if CIRP order is set aside.

5. Subsequently, the Financial Creditor filed an application for restoration of the Company Petition, in which on 12.06.2024 notices were issued and restoration was allowed on 03.07.2024, which order has been brought on record as Annexure A-11 to the appeal. After restoration was allowed, a new number 'RCP(IB)/5(AHM)2024' was given and it was listed on 04.09.2024 and on that the Corporate Debtor was proceeded ex-parte. Thereafter, the matter was taken on 20.09.2024, on which date after hearing learned counsel for the Financial Creditor order was reserved and by impugned order Section 7 application has been admitted.

6. The submission of learned counsel for the Appellant is that no adequate opportunity was given to the Corporate Debtor to contest the Section 7 application after restoration of the Company Petition and a different number was allocated to the Company Petition being RCP(IB)/5(AHM)2024, which cannot be accessed by the counsel appearing for the Corporate Debtor, hence,

none could appear on 04.09.2024 when the Adjudicating Authority directed to proceed ex-parte. It is submitted that the same changed number was shown when impugned order was passed on 24.09.2024.

5. Shri Gaurav Mitra, learned counsel appearing for the Respondent does not dispute that after restoration of application was allowed a different number RCP(IB)/5(AHM)2024 was given to the Company Petition and no one could appear for the Corporate Debtor on 04.09.2024 when direction to proceed ex-parte was issued as well as on 20.09.2024 when matter was heard and reserved.

6. We have considered the submissions of learned counsel for the parties and perused the record.

7. As noted above, the Company Petition was disposed of on 01.05.2024 and thereafter on the application of the Financial Creditor it was restored by order dated 03.07.2024. It is submitted that the restoration was allowed and thereafter matter was fixed on 04.09.2024. Copy of the order dated 04.09.2024 is filed as Annexure A-12 to the appeal, which indicate that the old CP (IB) No.129 of 2023 has been renumbers as 'RCP(IB)/5(AHM)2024', on which date none could be heard on behalf of the Corporate Debtor. Learned counsel for the Appellant is correct in his submission that number of the Company Petition which was proceeding as CP (IB) No.129 of 2023 has been changed without notice to the Corporate Debtor. Counsels appearing for the Corporate Debtor could not access the number of the Company Petition and that is the reason that none could appear on 04.09.2024. Subsequently, on

20.09.2024 also none could appear for the Corporate Debtor on which date the matter was heard and reserved.

8. In the facts of the present case, after considering the submissions of learned counsel for the parties, we are of the view that order impugned has been passed ex-parte to the Corporate Debtor and the Corporate Debtor was entitled for opportunity.

9. Learned counsel for the Respondent submits that the Appellant has already deposited the amount under the orders of this Tribunal dated 26.09.2024 and the Respondent is ready to accept the amount along with accrued interest to liquidate its dues. It is submitted that the Financial Creditor does not intend to proceed with the Section 7 application.

10. In view of the submission made by learned counsel for the Respondent -Financial Creditor and his willingness to accept the amount, let the amount deposited under order dated 26.09.2024 along with accrued interest be released in favour of the Respondent – Financial Creditor by the Registry. In view of the above, we see no reason to revive CP (IB) No.129 of 2023, which stands closed. Appeal is disposed of accordingly.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

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