Supreme Court of India Sandeep Khaitan vs Jsvm Plywood Industries Ltd. on 22 April, 2021 r: K.M. Joseph

Bench: Uday Umesh Lalit, Ind a Baneriee, K.M. Jos

IN THE SUPREME COURT OF INDIA CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO 447 OF 2021

(Arising out of SLP (CRL.) No. 1549 of 2021)

SANDEEP KHAITAN, RESOLUTION PROFESSIONAL FOR NATIONAL PLYWOOD INDUSTRIES LTD. ... APPELLANT(S)

VERSUS

JSVM PLYWOOD INDUSTRIES LTD. & Anr.

... RESPONDENT(S)

JUDGMENT

K.M. JOSEPH, J. Leave granted

- 1. The appeal is directed against order dated 04.02.2021 passed by the Hon'ble High Court of Guwahati in the impurged order, the High Court has allowed an interlocutory application filed by the Respondent No. 1 to allow it to operate its bank account maintained with the ICICI Bank Bhubaneswar and to unfree the bank account of its creditors over which the lien has been created and the accounts frozen pursuan the lodging of an FIR by the appellant before us. It was made subject to conditions. ar and to unfreeze
- 2. An application under Section 7 of the Insolvency and Bankruptcy Code, 2016, hereinafter referred to a the IBC was admitted on 20.08.2019 against one National Plywood Industries Limited (RPL). The Appellant was appointed as the Interim Resolution Professional. A monatonian also came to be passed to the very same order within the meaning of Section 14 of the IBC. The Appellant came to be appointed as the Resolution Professional by an order dated 08.11.2019. In the meanine, the Respondern No.1. the Resolution Professional by an order dated 68.11.2019, in the meantime, the Respondent No.1 cidaming to be an operational creditor by the claim for the amounts due to it from the Corporate Debtor before the Appellant vide communication dated 22.11.2019. It would appear that the former Managing Director of the Corporate Debtor changed the order of the NOLT, Guwahal, a dishting the application under Section 7. The NCLAT by order dated 24.11.2019 dismissed the appeal internal in holding that the application under Section 7 was not based 24.9 tilitation. Adapted No. 914.2 of 2019 filled by the former Managing Director of the Corporate Debtor came to be however allowed by this Court by an order dated 20.11.2020. The NCLXT was directed to consider the matter in accordance with full. It would papear that on 28.01.2020 interiocutory application 7 of 2020 filed by the former Managing Director of the Corporate Debtor came to provide the Corporate Pobbor seeking an injunction restraining the Respondents reperin from interfering in the operation of the Corporate Debtor and to disperse the cost of the CIRP was disposed of internalia as follows:
- L "Today the Respondents submitted across the Bar that except ratifying the expenses of the IRP, no major decisions have been taken by the COC in the yesterdays COC meeting. Both the respondents informed that they are conscious about the order passes by the Horbite Supreme Court and the legal consequences them expendents would maintain status above submissions of the respondents, this Tribunal expects that the respondents would maintain status quo in respect of the IRP proceedings. As the main company petition was remanded back to the Horbite NCLIAT for favel disposal an accordance with law, this Tribunal is of the considered opinion that the petitioner has to approach the Horbite NCLIAT for any further directions in the above matter and accordingly above application stands disposed of with the above observations. Even otherwise, the order of admission of the company petition has not attained finally and therefore, no interim orders as prayed for needs to be passed today iii. In the result, IA no. 07 of 2020 is disposed of with the above observations. "Thereafter there is order dated 20.03.2020 passed which we will acher to.

FINDINGS

- FINDINGS

 16. The contours of the jurisdiction under 482 of the Cr.P.C. are far too well settled to require articulation or reference. Undoubtedly, in this case by 26.08 2019 an application filed under section 7 of the IBC was admitted, the application professional and what is more a moratorium and the section 10 of the 10 o
- 17. It may be true that in the interim order passed by the NCLT Guwahati, the Tribunal had directed the Directors to refund the amount of the Corporate Debtor less any amount paid for supplies. It is also tru that the review petition filed by the Appellant is dismissed, essentially based on the limitations on the cause of training.
- 18. The provisions of the IBC contemplate resolution of the insolvency if possible, in the first instance an should it not be possible, the winding up of the Corporatic bebox. The role of the insolvency professional is neatly cared out. From the date of admission of application and the appointment of Intern Resolution Professional, the management of the affairs of the Corporatic Debtor is to vest in the Interim Resolution Professional. While such appointment, the powers of the Board of Directors or the patients of the Ordered to the control of the contro

I. The Respondent No.1 is allowed to operate its account subject to it to first remitting into the account of the Corporate Debtor, the amount of Rs 32.50 lakhs which stood paid to it by the management of the Corporate Debtor, The assets of the Corporate Debtor shall be managed strictly in terms of the provision of the IBC. The Appellant as RP will bear in mind the provision of Section 14 (2A) and the object of IBC. We however make it clear that our order shall not be taken as our pronouncement on the issues arising from the FIR including the petition pending under Section 482 of the Cr.P.C.

e also make it clear that the judgment will not stand in the way of the Respondent No.1 pursuing its n with regard to its entitlement to a sum of Rs.32.50 lakhs and any other sum from the Corporate for or any other person in the appropriate forum and in accordance with law. There will be no order as significant to the control of th

Input to model

Ratio of decision/Explanation

To be predicted by model

Decision (Not given as input)