

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

**Company Appeal (AT) (Insolvency) No.779 of 2024**

**IN THE MATTER OF:**

**Bhushan Power & Steel Ltd.**

**...Appellant**

**Versus**

**Mahender Kumar Khandelwal & Anr.**

**...Respondents**

**Present:**

**For Appellant: Mr. Neeraj Kishan Kaul, Sr. Advocate with Mr. Bishwajit Dubey, Mr. Deepak Joshi, Mr. Kaustubh Rai, Advocates.**

**For Respondents: Mr. Sunil Fernandes, Sr. Advocate with Mr. Vijayant Paliwal, Ms. Charu Bansal, Ms. Diksha Dadu, Ms. Rajshree Chaudhuri, Advocates for R-1.**

**Mr. Sapandan Biswal, Advocate for R-2.**

**O R D E R  
(Hybrid Mode)**

**24.04.2024:** Heard Shri Neeraj Kishan Kaul, learned senior counsel for the Appellant and Shri Sunil Fernandes, learned senior counsel appearing for the Resolution Professional.

2. This Appeal has been filed against order dated 01.04.2023 passed in New I.A. No.1529 of 2024. The order passed by the Adjudicating Authority is as follows:

***“New IA-1529/2024***

*Heard Mr. Sunil Fernandes, Ld. Sr. Counsel for the Applicant. The modal timeline as prescribed by the CIRP Regulations appears to have been breached.*

*Cont'd.../*

*Therefore, Ld. Sr. Counsel for the Applicant seeks liberty to file better and proper application.*

*In view of the above, IA-1529/2024 stands disposed of.”*

3. This Appeal has been filed by the Corporate Debtor who has taken the Corporate Debtor after approval of the Resolution Plan on 05.09.2019. It is submitted that the Resolution Plan has already been implemented on 26.03.2021 and the I.A. No.1529 of 2024 was filed by the erstwhile Resolution Professional making certain prayers on which application order as stated above was passed.

4. Shri Niraj Kishan Kaul submits that the observation made by the Adjudicating Authority that “modal timeline as prescribed by the CIRP Regulations appears to have been breached”, is not a correct observation since the applications for avoidance were filed in the year 2018 itself.

5. Learned counsel for the Resolution Professional submits that Resolution Professional has filed four avoidance applications in the year 2018 and they were pending.

6. Learned counsel for the Appellant submits that the Resolution Professional did not take any steps for listing and hearing of the applications. Learned counsel for the Appellant submits that learned counsel for the Resolution Professional has taken liberty to file a better and proper application which ought not to have been allowed since no fresh avoidance application can be filed. At best the application which is already filed can be prayed to be

listed and heard. As per the Resolution Plan, the Appellant is now entitled to pursue the application since the benefit of the Avoidance Applications under the Resolution Plan shall now enure to be benefit of the Appellant.

7. We are of the view that ends of justice be served in reviving application I.A. No.1529 of 2024 filed by the Resolution Professional with liberty to the Appellant to file an application seeking liberty of the Adjudicating Authority to prosecute the Avoidance Applications in accordance with law. In result, we set aside order dated 01.04.2024 passed in I.A. No.1529 of 2024 and revive I.A. No.1529 of 2024 with liberty to the Appellant as above.

8. We make it clear that we have not entered any of the contentions raised by either of the parties in the application and it is for the Adjudicating Authority to consider and decide the same in accordance with law. Both the parties are at liberty to make appropriate application to decide all avoidance applications which were filed in 2018. The Appeal is disposed of accordingly.

**[Justice Ashok Bhushan]**  
**Chairperson**

**[Barun Mitra]**  
**Member (Technical)**

*Archana/nn*