

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI, COURT - II

Item No. 107
(IB)-418(ND)18
New Comp. Appeal-41/2021

IN THE MATTER OF:

M/s. Alloys & Metals (INDIA)

... **Applicant/Petitioner**

Versus

M/s. Hindustan Paper Corporation Ltd.

... **Respondent**

Under Section: 9 of IBC, 2016

Order delivered on 22.10.2021

CORAM:

SHRI. ABNI RANJAN KUMAR SINHA
HON'BLE MEMBER (J)

SHRI L.N. GUPTA,
HON'BLE MEMBER (T)

PRESENT: Rahul Sharma, Advocate for the Liquidator.
Advocates for the Appellant: Mr. Animesh Kumar,
Mr. Nishant Kumar, Ms. Utkarsha Sharma, Ms. Shweta Singh

ORDER

New Comp. Appeal-41/2021: The present appeal is filed under Section 42 of the IBC challenging the decision dated 19th August, 2019 passed by the Liquidator, by which the part claim of the Appellant is rejected.

Heard the Ld. Counsel appearing for the Appellant as well as the Liquidator and perused the averments made in the Appeal. We notice that in the case in hand, admittedly the Liquidator has communicated the decision vide e-mail dated 19th August, 2019 and this fact is not in dispute. As per Section 42 of IBC, 2016, a creditor aggrieved by the decision of the Liquidator is required to file an appeal within 14 days of the receipt of such decision.

The Ld. Counsel for the Appellant contends that in terms of the decision of the Hon'ble Supreme Court, due to pandemic the period of limitation was extended from 15th March, 2020 to 14th March, 2021 and thereafter, again it was extended till further orders. He further submitted in view of the decision of Hon'ble Supreme Court in suo moto matters, the present appeal is within time.

On the other hand, Ld. Counsel for the Liquidator submits that since the decision of part rejection was communicated on 19th August, 2019 and the order of the Hon'ble Supreme Court came into force since 15th March, 2020, the decision is not applicable in the case of the Appellant.

Considering the submissions of the parties, we are of the considered view that as the decision was communicated to the Appellant on 19th August, 201 by the Liquidator, the Appellant was required to file the appeal within 14 days since the date of 19th August, 2019. Admittedly, the present application has been filed on 28th September, 2021. Therefore, it is barred by limitation.

Hence, the Appeal-41/2021 is dismissed on the point of limitation.

- Sd -

(L. N. GUPTA)
MEMBER (T)

- Sd -

(ABNI RANJAN KUMAR SINHA)
MEMBER (J)