

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2822/2020

ARUN KAPOOR, RESOLUTION PROFESSIONAL
DENOVO ENTERPRISES PRIVATE LIMITED APPELLANT(S)

VERSUS

DENOVO ENTERPRISES PRIVATE LIMITED RESPONDENT(S)

O R D E R

1. Appeal is admitted.
2. This appeal takes exception to the order dated 06.01.2020 passed by the National Company Law Appellate Tribunal, New Delhi in Company Appeal (AT) Insolvency No.1523 of 2019, whereby application moved by the appellant for excluding the time *bona fide* spent for processing the resolution plan came to be rejected.
3. We have heard learned counsel for the appellant as well as the respondent.
4. The impugned order makes no reference to the relevant facts as to why the request for exclusion of time deserves to be rejected in the facts and situation of the present case. The original order passed by the National Company Law Tribunal also suffers from the same error. On the other hand, on

perusing the record, it transpires that the parties were pursuing the matter in right earnest.

5. The first order initiating Corporate Insolvency Resolution Process (CIRP) came to be passed on 23.01.2019, which was received by the Interim Resolution Professional, Mr. Navin Khandelwal on 01.02.2019. However, the records were not made available to the IRP until 07.06.2019. Only thereafter, the IRP could convene the meeting of the Committee of Creditors on 05.07.2019. It was followed by another meeting of Committee of Creditors on 12.07.2019, when a decision was taken to replace the IRP and appoint the present appellant, Mr. Arun Kapoor, as Resolution Professional. That decision was placed before the National Company Law Tribunal by way of formal application, but the order passed on 14.08.2019 by the National Company Law Tribunal records the converse position about the appointment of Resolution Professional. In other words instead of noting that the Committee of Creditors desired to nominate Mr. Arun Kapoor as Resolution Professional, it has been recorded as Mr. Navin Khandelwal be appointed as Resolution Professional. Resultantly, a formal application was immediately moved and

appropriate order thereon came to be passed on 15.10.2019 regarding the correct position as desired by the Committee of Creditors *vide* second meeting held on 12.07.2019.

6. Taking into account these dates, we find merits in the arguments of the appellant, that the Tribunal ought to have excluded the time spent *bona fide* by the parties in pursuing the matter to its logical end.

7. Accordingly, the application for exclusion of time deserves to be allowed. The same is allowed in terms of this order. As a result of which the time spent earlier referred to in the application stands excluded. The remaining period would start from date of this order and to be reckoned accordingly.

8. The appeal is disposed of in the above terms. No order as to costs.

....., J.
(A.M. KHANWILKAR)

....., J.
(B.R. GAVAI)

....., J.
(KRISHNA MURARI)

NEW DELHI
DECEMBER 14, 2020.

ITEM NO.2 Court 5 (Video Conferencing) SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 2822/2020

ARUN KAPOOR, RESOLUTION PROFESSIONAL
DENOVO ENTERPRISES PRIVATE LIMITED

Appellant(s)

VERSUS

DENOVO ENTERPRISES PRIVATE LIMITED

Respondent(s)

(IA No.69246/2020-EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT and IA No.69243/2020-STAY APPLICATION and IA
No.69239/2020-PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)

Date : 14-12-2020 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE KRISHNA MURARI

For Appellant(s)

Ms. Rukhsana Choudhury, AOR

For Respondent(s)

Ms. Shampa Nath, Adv.
Mr. Snehasish Mukherjee, AOR

UPON hearing the counsel the Court made the following
O R D E R

Appeal is admitted.

Appeal is disposed of in terms of the signed
order.

In view of the above, pending applications
shall stand disposed of.

(NEETU KHAJURIA)
COURT MASTER

(VIDYA NEGI)
COURT MASTER

(Signed order is placed on the file.)