

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 479 of 2018

IN THE MATTER OF:

**C. Parthasarathy, Director,
KAC YARN Pvt. Ltd.**

...Appellant

Vs

Vishnu Sudha Textiles & Anr.

....Respondents

Present:

For Appellant: Mr. Hari Haran, Advocate.

For Respondent:

O R D E R

24.08.2018: The Appellant is the Shareholder and Managing Director of the M/s KAC YARN Pvt. Ltd. (Corporate Debtor). He has challenged order dated 22nd June, 2018 after delay of 11 days, by which the Adjudicating Authority (National Company Law Tribunal), Single Bench, Chennai passed order under Section 33 for liquidation of the Corporate Debtor.

2. Learned counsel for the Appellant submits that the Committee of Creditors, which consist of only one member agreed for one time settlement in term of deposit of a sum of Rs.72.5 Lakh. He further submits that in such case, there is not occasion for Resolution Professional to ask for passing order under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 (for short 'I&B Code'), instead he should have asked for extension of period of 180 days for accepting the one time settlement, acted upon by the parties.

3. Admittedly, the Appellant is the Shareholder and Managing Director of the Corporate Debtor and was ineligible in terms of Section 29A of the I&B Code to file any resolution plan. There is no provision of one time settlement under I&B Code, therefore, no relief can be granted, even if delay of 11 days in preferring the appeal is condoned being satisfied of the grounds for delay.

4. For the reasons aforesaid we dismiss the appeal. However, dismissal of this appeal will not come in the way of the Appellant to move before appropriate authority/ forum for appropriate relief.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

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