NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 444 of 2025

In the matter of:

PTC Engineering India Pvt. Ltd. ....**Appellant**

Vs.

Naresh Kumar Munjal, RP of Nipman Fasteners Industries Pvt. Ltd. ...**Respondent**

For Appellant	**Mr. Rishi Kapoor, Mr. Shashank Agarwal, Mr. Abhishek Taneja, Mr. Surya Singh Sirohi, Advocates.**
For Respondent	**Ms. Honey Satpal, Mr. Kanishk Khullar, Advocates.**

ORDER

(Hybrid Mode)

18.03.2025: Heard Counsel for the Appellant and Counsel for the Respondent.

2. This Appeal has been filed against the impugned order dated 06.02.2025 passed by the Adjudicating Authority (National Company Law Tribunal) New Delhi Court-III in IA No.4529 of 2023. IA No.4529 of 2023 was filed by the Appellant seeking direction as contained in paragraph 1 of the order which are as follows:-

> *"''(a) The present Application be allowed by the Hon'ble Tribunal;*
>
> *(b) Allow the Applicant to file its EOI in the CIRP of Nipman Fastener Industries Pvt. Ltd.*

> *(c) To direct the RP to consider the EOI and supply a copy of the information memorandum, evaluation matrix and the request for resolution plans;*
>
> *(4) to pass such order(s) as the Hon'ble Tribunal may deem fit and appropriate in the given facts and circumstances of the case."*

3. The last date for submitting EoI was 24.07.2023. Appellant mistook the date as 26.07.2023 and submitted its EoI on 26.07.2023. The EoI was not accepted and Resolution Professional informed that the last date being 24.07.2023, EoI of the Appellant cannot be accepted. The Applicant thereafter filed the IA seeking a direction. There was earlier decision of the Adjudicating Authority in the IA along with two other IAs which on appeal was set aside and matter was remitted to the Adjudicating Authority for fresh decision. Now by the impugned order, the Adjudicating Authority has rejected the IA filed by the Appellant. Adjudicating Authority has noticed in the impugned order that the CoC in its 16th meeting held on 01.04.2024 decided not to accept the belated EoIs and resolve for liquidation.

4. Counsel for the Appellant challenging the order submits that the object of the IBC is to revive the Corporate Debtor and Appellant being in the same business is fully entitled to revive the Corporate Debtor. It is submitted that at the time when decision was taken to liquidate the corporate debtor, there was no plans before the Adjudicating Authority.

5. Counsel for the Respondent refuting the submission of the Appellant submits that the CoC has already taken a decision not to accept the belated

EoIs and after the expiry of the date for accepting the EoI, no EoI could have been considered by the Resolution Professional. She has referred to Regulation 36A of Liquidation Regulations 2016 in support of the submissions.

6. We have considered the submissions of the Counsel for the parties and perused the record.

7. It is useful to notice the observations made by the Adjudicating Authority in paragraphs 24 and 25 which are as follows:-

> *"24. This Adjudicating Authority vide Order dated 09.04.2024 directed the Resolution Professional to consider the Eol of the Applicant and allowed the present Application. The facts and circumstances of the present case reveals that the CoC in its commercial wisdom had already decided for liquidation of the Corporate Debtor in its 16th Meeting held on 01.04.2024. It was affirmed by the CoC that it was not the only Eol which was rejected on the ground of being received belatedly. The CoC discussed that it will be unfair to allow only one Eol at this stage without giving the opportunity to the public at large for which the CoC does not agree in their commercial wisdom.*
>
> *25. Therefore, as per the established provisions, the Resolution Professional had rightly rejected the Eol of the Applicant and subsequently informed the Applicant about the same vide email dated 03.08.2023 as the Resolution Professional is under no authority to accept the belated Eol since the CoC in its 5th Meeting held on 17.08.2023 and again in 17th Meeting held on 22.04.2024 decided not to accept the*

> *belated Eol and have resolved to file Liquidation Application bearing IA (Liq.)-21/2024 for the sale of Corporate Debtor or business of Corporate Debtor as a going concern under Regulation 32 (E) or (F) Insolvency and Bankruptcy Board Of India (Liquidation Process) Regulations, 2019."*

8. The CoC has taken a decision not to accept the belated EoI and has also resolved to file liquidation application being IA No.21 of 2024 for the sale of the corporate debtor or business of the corporate debtor as a going concern. CoC having already taken a decision not to accept belated EoI and has taken a decision for liquidation, we are of the view that no error has been committed by the Adjudicating Authority rejecting the application filed by the Appellant.

9. Counsel for the Appellant has placed reliance on the judgment of this Tribunal in ***"Athena India Opportunities vs. Bhuvan Madan, Resolution Professional of Arshiya Northern FTWZ Ltd.- Company Appeal (AT) (Ins.) No.1607 of 2024"*** decided on 22.10.2024 which is as follows:-

> *"**22.10.2024 -** The Learned Sr. Counsel for the Appellant appears and submits the Appellant has filed an Affidavit in view of the settlement arrived between the parties. The paragraphs 3 and 4 of the said Affidavit read as under:*
>
> > *"3. I say the Appellant is willing to deposit the requisite Refundable Earnest Money Deposit of INR 10,00,00,000/- (Indian Rupees Ten Crores Only) by way of Demand Draft by 23rd October 2024 through its Indian subsidiary.*

> *4. I further say that the Appellant undertakes to electronically submit the Resolution Plan to the Respondent/Resolution Professional on or before 30th October 2024 and seeks liberty to submit the notarized / apostilled Resolution Plan subsequently once completed as per the time taken for notary / apostille and postage from Mauritius. I say that the Appellant be given fair and at per treatment as the other Resolution Applicants by the Committee of Creditors of the Corporate Debtor and revise its Resolution Plan, as may be needed pursuant to discussion with the Committee of Creditors."*

> *2. After going through the Affidavit, the Learned Counsel for the Intervener intends to withdraw the Intervention application i.e. I.A. No. 6400 of 2024 and that he may pursue his cause before the Ld. NCLT, if need so arises. Liberty so granted. 3. In view of the Affidavit so filed, the impugned order dated 22.07.2024 is set aside. The Appellant is now allowed to participate in challenge process as is mentioned in para 4 of the Affidavit. This appeal is disposed of in terms of para 4 of the Affidavit. Pending application(s), if any, are also disposed of."*

10. Reliance has been placed in paragraph 3 of the above order and it is submitted that this Tribunal has allowed the Appellant to participate in challenge process as is mentioned in paragraph 4 of the Affidavit. The order passed by this Tribunal in the above case was on the facts of the said case and from the judgment, no such ratio can be deduced that it is obligatory for the

Adjudicating Authority to direct for consideration of EoI which is received after last date.

11. In view of the aforesaid, we do not find any ground to interfere with the impugned order. The Appeal is dismissed.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

[Arun Baroka]
Member (Technical)

Anjali/nn