

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

**Company Appeal (AT) (Insolvency) No. 1408 of 2022
& I.A. No.4397, 4374 of 2022**

IN THE MATTER OF:

Jagadish

...Appellant

Versus

Oyo Hotels & Homes Pvt. Ltd.

...Respondent

Present:

For Appellants: Mr. T. S. Suresh, Mr. Saket Gogia and Mr. Man Singh, Advocates.

For Respondents: Mr. Harsh Kaushik and Ms. Adrija Mishra, Advocates.

O R D E R

13.01.2023: **I.A. No. 4374 of 2022:** This is an application praying for condonation of delay of 122 days in refiling the Appeal. The ground taken in the application is that delay was caused in receiving various documents for the refiling of the instant appeal and Counsel for the Appellant suffered a back injury due to which he was advised strict bedrest for 1.5 months beginning from the first week of September. We are satisfied that sufficient cause has been shown for condoning delay in refiling. Delay in refiling the Appeal is condoned. I.A. No. 4374 of 2022 stands disposed of.

2. This Appeal has been filed against the order dated 11.05.2022 passed in three I.As being IA/392(AHM)2022, IA/394(AHM)2022 and IA/396(AHM)2022 filed by the Appellant. Appellant is an Operational Creditor

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who had filed an application under Section 9 praying for initiation of Corporate Insolvency Resolution Process against the Corporate Debtor. The Appellant filed an application seeking direction to the Corporate Debtor not to proceed with IPO. The Adjudicating Authority observed that the Corporate Debtor having not admitted in CIRP, application is premature. We do not find any reason to take any different view which was taken by the Adjudicating Authority.

3. The application IA/394(AHM)2022 was filed by the Appellant - Operational Creditor praying for direction asking Respondent to furnish their latest financial statement. The Adjudicating Authority has not entertained the application observing that applicant is seeking prohibitory order. Section 9 application which has been filed by the Appellant is to be considered on its own merits and at the stage when Adjudicating Authority has not even heard the application for admission, we do not find any error in the rejection of application IA/394(AHM)2022. We, however, observe that it is open for the Adjudicating Authority to ask for any documents from either of the parties, at any stage of the proceedings, if it so deem fit and proper.

4. Coming to the last application IA/396(AHM)2022, where the Operational Creditor was praying for exemption from filing clear copies of certain invoices. Exemption for filing clear copies was prayed by the Appellant which indicate that the Appellant was not relying on said dim invoices. The Adjudicating Authority ought to have granted exemption, as prayed in IA/396(AHM)2022.

We, thus, are satisfied that the Appellant was entitled for exemption as prayed in IA/396(AHM)2022.

5. Subject to what has been said above, Appeal is dismissed.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

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