



December 18, 2022

The Head-Listing & Compliance  
Metropolitan Stock Exchange of India Ltd.  
205(A), 2<sup>nd</sup> Floor, Piramal Agastya  
Corporate Park, Kamani Junction  
LBS Road, Kurla (West), Mumbai-400070

Symbol: AGGARSAIN  
Series: BE

**Sub: Set aside of Hon`ble National Company Law Appellate Tribunal ("NCLAT") New Delhi Impugned final judgement and order dated 14.09.2022 in the matter(s) of Company Appeal (AT) (Insolvency) No. 635 & 636 of 2022 and 637& 638 of 2022 vide the directions issued by Hon`ble Supreme Court in its order dated 09.12.2022.**

**Ref: Disclosure pursuant to Regulation 30 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, as amended ("LODR Regulations").**

Dear Sir/Madam,

As informed in our intimation(s) dated 10.12.2022 that the Civil Appeal(s) filed vide no. 7015-7016 with 9080-9081 of 2022 in Hon`ble Supreme court vide diary No. 30238/2022 & 30267/2022 against the Hon`ble National Company Law Appellate Tribunal ("NCLAT") New Delhi final judgement and order dated 14.09.2022 in the matter(s) of Company Appeal (AT) (Insolvency) No. 635 & 636 of 2022 and 637& 638 of 2022 has been disposed-off by Hon`ble Supreme Court on 09.12.2022, we wish to further inform that the impugned judgement and order of Hon`ble NCLAT dated 14.09.2022 has been set aside and substituted by the directions issued by Hon`ble Supreme Court vide its order dated 09.12.2022 .

The written order as available on website of Hon`ble Supreme Court containing the details and terms is attached herewith.

This is for your information and records.

**Thanking You,**

**Sunny Garg  
Managing Director & Compliance Officer  
DIN: 02000004**

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION**

**Civil Appeal Nos 7015-7016 of 2022**

**Aggarsain Spinners Limited and Another**

**Appellants**

**Versus**

**Rajiv Khurana (Formerly Mr Sumat Gupta)  
and Another**

**Respondents**

**W I T H**

**Civil Appeal Nos 9080-9081 of 2022**

**ORDER**

- 1 This batch of two appeals arises from a common judgment dated 14 September 2022 of the National Company Law Appellate Tribunal<sup>1</sup> in (i) Company Appeal (AT) (Insolvency) Nos 637 and 638 of 2022; and (ii) Company Appeal (AT) (Insolvency) Nos 635 and 636 of 2022.

**Facts pertaining to Company Appeal (AT) (Insolvency) Nos 637 and 638 of 2022**

- 2 Punjab National Bank, the financial creditor, filed an application under Section 7 of the Insolvency and Bankruptcy Code<sup>2</sup> 2016 for initiating the Corporate Insolvency Resolution Process<sup>3</sup> against Vallabh Textiles Limited, the Corporate Debtor. The application was admitted on 12 April 2019. An Interim Resolution Professional<sup>4</sup> was appointed. The IRP was confirmed as Resolution Professional<sup>5</sup> by the Committee of Creditors<sup>6</sup> on 9 May 2019. The appellant, Aggarsain Spinners Limited was confirmed as the highest bidder after various rounds of meetings before the CoC. The CoC approved the plan on 25 May 2020. An application was filed by Vallabh Textiles Limited seeking to declare the appellant ineligible to submit the resolution plan under Section 29A(f) of the IBC. Subsequently, the application filed by the RP came to be rejected by NCLT on the ground that the resolution applicant was ineligible under Section 29A(f) of the IBC at the time of submission of the resolution plan. The appeal against the order of the NCLT was dismissed by NCLAT by the impugned judgment.

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2 “IBC”

3 “CIRP”

4 “IRP”

5 “RP”

6 “CoC”

**Facts pertaining to Company Appeal (AT) (Insolvency) Nos 635 and 636 of 2022**

- 3 In the above appeals, Phoenix ARC Private Limited (the financial creditor) filed an application under Section 7 for initiation of CIRP against GPI Textiles Limited (the corporate debtor). The application was admitted on 6 July 2018. The IRP was appointed and was later confirmed as the RP. Before the CoC, the appellant emerged as the highest bidder. The resolution plan submitted by the appellant was approved by the CoC, whereupon an application under Section 31 of the IBC was filed by the RP for the approval of the resolution plan by the adjudicating authority. In the meantime, the RP stated that he had received an email on 15 June 2021 from Ayat Processors claiming that the appellant was ineligible in view of the provisions of Section 29A(f) of the IBC because at the time of the submission of the resolution plan and its approval by the CoC it had been debarred by SEBI from accessing the securities market. An application was filed by the first respondent, Shreeji Cotfab Limited for declaring the appellant ineligible to be a resolution applicant in view of the provisions of Section 29A(f) of the IBC. The application was allowed by the NCLT by a judgment dated 24 May 2022. The appeal against the judgment of NCLT was dismissed by the impugned judgment.
- 4 The appellant is an exclusively listed company whose shares were listed on the Stock Exchanges at Jaipur and New Delhi. Consequent upon the closure

of the Regional Stock Exchanges, the appellant was moved to the Dissemination Board of the Bombay Stock Exchange<sup>7</sup>. SEBI issued a circular on 10 October 2016 by which an exit plan was devised for companies that were placed with the Dissemination Board. According to the circular, the company could either exit or get listed in the nationwide stock exchanges. Paragraph 6(a) of the circular , *inter alia*, stipulates that if a company remains in the Dissemination Board without taking either of the options, it shall be barred from either directly or indirectly associating with the securities market for a period of ten years. Another circular was issued on 1 August 2017 reiterating that non-compliant companies shall be removed from the securities market.

- 5 According to the first respondent, BSE had issued a notice on 27 March 2018 that the appellant shall be barred from accessing the securities market for a period of ten years for failure to comply with SEBI's circular dated 10 October 2016, as a result of which, it was ineligible in terms of Section 29A(f). It is also the case of the first respondent that the appellant had filed a false affidavit stating that it was compliant with Section 29A.
- 6 The case which was set up by the appellant was that the order of debarment for a period of ten years could not have been passed without following the principles of natural justice, in accordance with the provisions of Section 11(4) of the SEBI Act 1992. Moreover, it was submitted that there was no

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"BSE"

delegation of power by SEBI to BSE in its circulars dated 10 October 2016 and 1 August 2017 to restrain any person from accessing the securities market, and therefore the notice issued by BSE on 27 March 2018 is illegal. Moreover, it was urged that BSE could not have passed the order dated 28 March 2021 debaring the appellant in terms of Section 29A(f) without recourse to the mandatory procedure prescribed in Section 11(4) of the SEBI Act 1992. In other words, it was urged that there was an error in holding the appellant to be ineligible under Section 29A(f). On these grounds, it is urged that there was no valid debarment of the appellant and, hence the provisions of Section 29A(f) have no application.

- 7 The NCLT held that the appellant was debarred in terms of Section 25A(f) and the appeal against the said judgment was dismissed by NCLAT by the impugned judgment. The NCLAT observed that validity of the notice issued by BSE must be determined in writ proceedings under Article 226 of the Constitution before the appropriate forum. Addressing the argument that SEBI had not delegated the power under Section 11(4) of the SEBI Act 1992 to BSE, it was observed that the circulars issued by SEBI provided that if the conditions of exit are not complied with, the company shall be barred from the securities market. Thus, in that view, th BSE did not exercise power under Section 11(4) while issuing the notice.
- 8 We have heard Mr Mukul Rohatgi and Mr Puneet Bali, senior counsel in

support of the appeals.

- 9 Reiterating the submissions which were urged before the appellate authority, Mr Rohatgi submitted that *ex facie*, the provisions of Section 29A(f) are not attracted. Section 29A(f), it was urged, would arise where a person “is prohibited by the Securities and Exchange Board of India from trading in securities or accessing the securities market”. In the present case, it was submitted that neither was the appellant prohibited by SEBI, nor had SEBI taken recourse to its powers under Section 11(4) of the SEBI Act 1992.
- 10 During the pendency of these proceedings, the Court has been apprised of subsequent developments which have taken place. On the one hand, on 16 February 2021, BSE has revoked its recommendation on the restraint status of the appellant, as a consequence of which, the prohibition on accessing the securities market stands lifted. The second important aspect which needs to be noted is that the resolution plan submitted by the appellant was submitted before the adjudicating authority under Section 31, and no final orders have been passed. Section 31(1) stipulates that if the adjudicating authority is satisfied that the resolution plan approved by the CoC under sub-section 4 of Section 30 meets the requirement under Section 30(2), it shall, by order, approve the resolution plan. In the present case, even before the resolution plan submitted by the appellant could be approved, a fresh round has taken place before the CoC, as a consequence of which, Expressions of

Interest<sup>8</sup> have been invited. During the said process, fresh EoIs have been made available to the CoC.

- 11 Mr Guru Krishna Kumar, senior counsel appearing on behalf of the CoC has informed the Court that in the two appeals, the fresh EoIs have resulted in a substantially higher offer (Rs 96 crores as opposed to Rs 83 crores and Rs 165 crores instead of Rs 85 crores). Having regard to this backdrop, the process before the adjudicating authority had not culminated in the final approval of the resolution plan.
- 12 In this view of the matter, and since the Court is apprised of the fact that substantially higher offers are now made available to the CoC, it would be appropriate and proper that the CoC is permitted to proceed further on the basis of the fresh EoIs which have been received. Since the subsequent communication dated 16 February 2021 issued by BSE operates to lift the restraint status that was imposed on the appellants, it would be appropriate to permit the appellants to submit a resolution plan and an EoI to the CoC within a period of thirty days.
- 13 The bank guarantees and the earnest money which were submitted by the appellants with their resolution plan shall be returned back to the appellants so as to facilitate the submission of a fresh resolution plan together with a fresh bank guarantee.

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8 "EoI"



- 14 The period for the completion of the process shall stand extended by sixty days from the date of this order. After completing the process, the RP shall file a fresh application before the adjudicating authority for approval of the resolution plan in terms of the provisions of Section 31 of the IBC.
- 15 In view of the above directions, the impugned judgment and order of the NCLAT is set aside and substituted by the directions issued above.
- 16 The civil appeals are accordingly disposed of.
- 17 Pending applications, if any, stand disposed of.

.....CJI.  
[Dr Dhananjaya Y Chandrachud]

.....J.  
[Pamidighantam Sri Narasimha]

New Delhi;  
December 9, 2022  
CKB

ITEM NO.25

COURT NO.1

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 Nos.7015-7016/2022

AGGARSAIN SPINNERS LIMITED & ANR.

Appellant(s)

VERSUS

RAJIV KHURANA (FORMERLY MR. SUMAT GUPTA) & ANR.

Respondent(s)

(With IA No.147421/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.147419/2022 - STAY APPLICATION)

WITH C.A. Nos.9080-9081/2022 (XVII)

(With IA No.183657/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.183658/2022-EX-PARTE STAY and IA No.183655/2022-CONDONATION OF DELAY IN REFILEING/CURING THE DEFECTS)

Date : 09-12-2022 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA

For Appellant(s) Mr. Mukul Rohatgi, Sr. Adv.  
Mr. Puneet Bali, Sr. Adv.  
Mr. Surjeet Bhadu, Adv.  
Mr. Cyrus Jal, Adv.  
Mr. Aditya Soni, AOR

For Respondent(s) Mr. Abhishek Anand, Adv.  
Mr. Mithu Jain, AOR  
Mr. Karan Kohli, Adv.  
Mohak Sharma, Adv.  
Mr. Viren Sharma, Adv.

Mr. Nikhil Jain, Adv.  
Mr. Sahil Bhatia, Adv.

Mr. Shekhar Raj Sharma, Adv.  
Mr. Paras Dutta, Adv.  
Mr. Jinendra Jain, AOR

Mr. Manish Jain, Adv.  
Mr. Siddhant Jain, Adv.  
Mr. Abhinav Agrawal, AOR

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

- 1 Delay in refiling the appeal is condoned.
- 2 The civil appeals are disposed of in terms of the signed order.
- 3 Pending applications, if any, stand disposed of.

**(CHETAN KUMAR)**  
A.R.-cum-P.S.

**(Signed order is placed on the file)**

**(SAROJ KUMARI GAUR)**  
Assistant Registrar