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Ministry of Corporate Affairs vide notification dated May 15, 2023, has issued the Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2023.

- MCA vide notification dated May 15, 2023, has issued the Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2023.
- The In the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, for sub-rules (5) and (6) of rule 25, the following sub-rules shall be substituted:

“Where no objection or suggestion is received within a period of thirty days of receipt of copy of scheme under sub-section (2) of section 233, from the Registrar of Companies and Official Liquidator by the Central Government and the Central Government is of the opinion that the scheme is in the public interest or in the interest of creditors, it may, within a period of fifteen days after the expiry of said thirty days, issue a confirmation order of such scheme of merger or amalgamation in Form No. CAA.12”

- The new Rules shall come into force with effect from 15th day of June, 2023.
- Notification is herein attached.

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APPELLANT WHO HAS NOT FILED ITS CLAIM BEFORE THE RESOLUTION PROFESSIONAL CANNOT CHALLENGE THE RESOLUTION PLAN APPROVED BY NCLT: NCLAT PRINCIPAL BENCH

The NCLAT Principal Bench comprising of members Justice Rakesh Kumar Jain (Member Judicial) and Naresh Salecha (Member Technical) has held that an appellant who has not filed its claim before the Resolution Professional of the Corporate Debtor cannot



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challenge the resolution plan approved by NCLT.

BRIEF FACTS

The 'Appellant' (Madhya Pradesh Paschim Kshetra Vidyut Vitaran) issued Notice of Permanent Disconnection to the 'Corporate Debtor' on 16.02.2018 for non-payment of dues and adjusted the security deposit of the 'Corporate Debtor' against outstanding dues of the 'Appellant' and issued a Bill after adjustment. The electricity connection of the Corporate Debtor's Plant at Meghnagar, was permanently disconnected on 23.03.2018 on account of overdue payments. The 'Appellant' issued a Bill for an amount of Rs. 19,99,792/- to the Corporate Debtor after adjusting the Security Deposit of Rs. 15,66,267.99. There were outstanding dues of Rs.20,24,789/- against the premises of the 'Corporate Debtor' at Meghnagar even after Permanent disconnection of its HT Connection. Vide letter dated 26.06.2018, the 'Corporate Debtor' acknowledged its liability to the extent of Rs. 19,99,792/- and expressed its inability to immediately pay the said amount. The 'Corporate Insolvency Resolution Process' (in short 'CIRP') was initiated in respect of the 'Corporate Debtor' and the 'Interim Resolution Professional' (in short 'IRP') was appointed on 11.09.2018. The Appellant failed to file its claim In the tenth meeting of 'CoC' held on 06.03.2019, the 'CoC' unanimously passed the resolution for approval of the final 'Resolution Plan' of the 'Resolution Applicant', 'Shree Pushkar Chemicals and Fertilisers Limited'. The Resolution plan did not provide for any electricity dues owed to the Appellant.

JUDGEMENT

'Appellate Tribunal' also observes that the electricity was disconnected since July 1, 2019 by the 'Appellant' and due to the same, will not form part of essential service as they are forming part of the dues prior to the initiation of the 'CIRP'. 'Appellate Tribunal' recorded that the present appeal is not maintainable since the appellant has failed to submit its claim before the 'IRP' at the time of invitation of claim from creditors on Company Appeal



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(AT). Appellate Tribunal would like to observe that the Resolution Plan was approved by ‘Adjudicating Authority’ vide impugned order dated 05.03.2020 which has already been implemented by Respondent No.2 (‘SRA’) & the appeal at this stage on the issues not backed by law cannot be entertained. The ‘Appellate Tribunal’ has held in its earlier orders that the ‘Appellant’ who has not filed any claim before the ‘IRP’ cannot be allowed to challenge the order approving the Resolution Plan by the ‘Adjudicating Authority’ as elaborated and held in the matter of ‘**M/s Akshar Plastchem Investment Private Limited vs. Shri Bijay Murmuri & Ors.**’ in CA (AT) (Ins) No. 191 of 2022 and accordingly dismissed the appeal.

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