

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
AT CHENNAI
(APPELLATE JURISDICTION)

Company Appeal (AT) (CH) (Ins) No.305/2021
(IA Nos.644/2021 & 213/2022)
(Under Section 61 of the Insolvency and Bankruptcy Code,
2016)

(Arising out of the Impugned Order dated 29.01.2021 in
IA(IBC)/21/KOB/2021 in TIBA/03/KOB/2019, passed by the
‘Adjudicating Authority’ (National Company Law Tribunal,
Kochi Bench)

In the matter of:

Muraleedharan V.N. & 58 Ors. ... Appellants

V

M/s. Hindustan Newsprint Limited & 2 Ors. ...Respondents

Present :

For Appellants : Ms. Jinnu Sara George, Advocate.
For Respondents : Mr. P.H. Arvinth Pandian, Sr. Advocate with Mr.
Shiv Shankar Panicker, Mr. C.V. Shailandhran,
Ms. Srishti Thukral and Mr. P.V. Vinod,
Advocates for R-2.

WITH

Company Appeal (AT) (CH) (Ins) No.23/2022
(IA No.48/2022)
(Filed under Section 61 of the Insolvency and Bankruptcy Code, 2016)

Arising out of the Impugned Order dated 29.01.2021 in
IA(IBC)/21/KOB/2021, passed by the ‘Adjudicating Authority’,
(National Company Law Tribunal, Kochi Bench)

In the matter of:

M/s. Nish Elgha Technologies Pvt. Ltd. ...Appellant

V

Hindustan Newsprint Ltd. & 2 Ors. ...Respondents

WITH

Company Appeal (AT) (CH) (Ins) No.112/2021
(IA No.208/2021)

(Filed under Section 61 of the Insolvency and Bankruptcy Code, 2016)

Arising out of the Impugned Order dated 29.01.2021 in
IA(IBC)/21/KOB/2021 in TIBA/03/KOB/2019, passed by the
‘Adjudicating Authority’, (National Company Law Tribunal,
Kochi Bench)

In the matter of:

Trisul Chemicals

...Appellant

V

Hindustan Newsprint Ltd. & 2 Ors.

...Respondents

WITH

Company Appeal (AT) (CH) (Ins) No.113/2021
(IA No.209/2021)

(Filed under Section 61 of the Insolvency and Bankruptcy Code, 2016)

Arising out of the Impugned Order dated 29.01.2021 in
IA(IBC)/21/KOB/2021 in TIBA/03/KOB/2019, passed by the
‘Adjudicating Authority’, (National Company Law Tribunal,
Kochi Bench)

In the matter of:

Ahammed Kabeer

...Appellant

V

Hindustan Newsprint Ltd. & 2 Ors.

...Respondents

WITH

Company Appeal (AT) (CH) (Ins) No.114/2021
(IA No.210/2021)

(Filed under Section 61 of the Insolvency and Bankruptcy Code, 2016)

Arising out of the Impugned Order dated 29.01.2021 in
IA(IBC)/21/KOB/2021 in TIBA/03/KOB/2019, passed by the
‘Adjudicating Authority’, (National Company Law Tribunal,
Kochi Bench)

In the matter of:

Thangaraja S

...Appellant

V

Hindustan Newsprint Ltd. & 2 Ors.

...Respondents

WITH

Company Appeal (AT) (CH) (Ins) No.115/2021

(IA No.211/2021)

(Filed under Section 61 of the Insolvency and Bankruptcy Code, 2016)

**Arising out of the Impugned Order dated 29.01.2021 in
IA(IBC)/21/KOB/2021 in TIBA/03/KOB/2019, passed by the
'Adjudicating Authority', (National Company Law Tribunal,
Kochi Bench)**

In the matter of:

Peninsular Traders

...Appellant

V

Hindustan Newsprint Ltd. & 2 Ors.

...Respondents

WITH

Company Appeal (AT) (CH) (Ins) No.116/2021

(Filed under Section 61 of the Insolvency and Bankruptcy Code, 2016)

**Arising out of the Impugned Order dated 29.01.2021 in
IA(IBC)/21/KOB/2021 in TIBA/03/KOB/2019, passed by the
'Adjudicating Authority', (National Company Law Tribunal,
Kochi Bench)**

In the matter of:

Trans Asian Shipping Service Pvt. Ltd.

...Appellant

V

Hindustan Newsprint Ltd. & 2 Ors.

...Respondents

WITH

Company Appeal (AT) (CH) (Ins) No.117/2021

(IA No.212/2021)

(Filed under Section 61 of the Insolvency and Bankruptcy Code, 2016)

**Arising out of the Impugned Order dated 29.01.2021 in
IA(IBC)/21/KOB/2021 in TIBA/03/KOB/2019, passed by the
'Adjudicating Authority', (National Company Law Tribunal,
Kochi Bench)**

In the matter of:

Creative Trade Links & Ors.

...Appellants

V

Hindustan Newsprint Ltd. & 2 Ors.

...Respondents

WITH

Company Appeal (AT) (CH) (Ins) No.118/2021

(IA No.213/2021)

(Filed under Section 61 of the Insolvency and Bankruptcy Code, 2016)

Arising out of the Impugned Order dated 29.01.2021 in
IA(IBC)/21/KOB/2021 in TIBA/03/KOB/2019, passed by the
‘Adjudicating Authority’, (National Company Law Tribunal,
Kochi Bench)

In the matter of:

B. Ayyappan Bair & Ors.

...Appellants

V

Hindustan Newsprint Ltd. & 2 Ors.

...Respondents

WITH

Company Appeal (AT) (CH) (Ins) No.119/2021

(IA No.214/2021)

(Filed under Section 61 of the Insolvency and Bankruptcy Code, 2016)

Arising out of the Impugned Order dated 29.01.2021 in
IA(IBC)/21/KOB/2021 in TIBA/03/KOB/2019, passed by the
‘Adjudicating Authority’, (National Company Law Tribunal,
Kochi Bench)

In the matter of:

K.J. Mathew & Ors.

...Appellants

V

Hindustan Newsprint Ltd. & 2 Ors.

...Respondents

WITH

Company Appeal (AT) (CH) (Ins) No.120/2021

(IA No.215/2021)

(Filed under Section 61 of the Insolvency and Bankruptcy Code, 2016)

Arising out of the Impugned Order dated 29.01.2021 in
IA(IBC)/21/KOB/2021 in TIBA/03/KOB/2019, passed by the
‘Adjudicating Authority’, (National Company Law Tribunal,
Kochi Bench)

In the matter of:

A.R. Jayakumar & Ors.

...Appellants

V

Hindustan Newsprint Ltd. & 2 Ors.

...Respondents

WITH

Company Appeal (AT) (CH) (Ins) No.121/2021

(IA No.216/2021)

(Filed under Section 61 of the Insolvency and Bankruptcy Code, 2016)

Arising out of the Impugned Order dated 29.01.2021 in
IA(IBC)/21/KOB/2021 in TIBA/03/KOB/2019, passed by the
‘Adjudicating Authority’, (National Company Law Tribunal,
Kochi Bench)

In the matter of:

M V Sumon

...Appellant

V

Hindustan Newsprint Ltd. & 2 Ors.

...Respondents

WITH

Company Appeal (AT) (CH) (Ins) No.122/2021

(IA No.217/2021)

(Filed under Section 61 of the Insolvency and Bankruptcy Code, 2016)

Arising out of the Impugned Order dated 29.01.2021 in
IA(IBC)/21/KOB/2021 in TIBA/03/KOB/2019, passed by the
‘Adjudicating Authority’, (National Company Law Tribunal,
Kochi Bench)

In the matter of:

Nitin Dyechem Pvt. Ltd.

...Appellant

V

Hindustan Newsprint Ltd. & 2 Ors.

...Respondents

WITH

Company Appeal (AT) (CH) (Ins) No.123/2021

(IA No.218/2021)

(Filed under Section 61 of the Insolvency and Bankruptcy Code, 2016)

Arising out of the Impugned Order dated 29.01.2021 in
IA(IBC)/21/KOB/2021 in TIBA/03/KOB/2019, passed by the
‘Adjudicating Authority’, (National Company Law Tribunal,
Kochi Bench)

In the matter of:

K P Ratheesan & 25 Ors.

...Appellants

V

Hindustan Newsprint Ltd. & 2 Ors.

...Respondents

WITH

Company Appeal (AT) (CH) (Ins) No.124/2021

(IA No.219/2021)

(Filed under Section 61 of the Insolvency and Bankruptcy Code, 2016)

Arising out of the Impugned Order dated 29.01.2021 in
IA(IBC)/21/KOB/2021 in TIBA/03/KOB/2019, passed by the
‘Adjudicating Authority’, (National Company Law Tribunal,
Kochi Bench)

In the matter of:

Travancore Cochin Chemicals Ltd.

...Appellant

V

Hindustan Newsprint Ltd. & Anr.

...Respondents

WITH

Company Appeal (AT) (CH) (Ins) No.267/2021

(IA No.582/2021)

(Filed under Section 61 of the Insolvency and Bankruptcy Code, 2016)

Arising out of the Impugned Order dated 29.01.2021 in
IA(IBC)/21/KOB/2021 in TIBA/03/KOB/2019, passed by the
‘Adjudicating Authority’, (National Company Law Tribunal,
Kochi Bench)

In the matter of:

Balaji Transports

...Appellant

V

Hindustan Newsprint Ltd.

...Respondent

WITH

Company Appeal (AT) (CH) (Ins) No.283/2021

(IA No.607/2021)

(Filed under Section 61 of the Insolvency and Bankruptcy Code, 2016)

**Arising out of the Impugned Order dated 29.01.2021 in
IA(IBC)/21/KOB/2021 in TIBA/03/KOB/2019, passed by the
'Adjudicating Authority', (National Company Law Tribunal,
Kochi Bench)**

In the matter of:

Mr. V. Chandran

...Appellant

V

Hindustan Newsprint Ltd. & 2 Ors.

...Respondents

WITH

**Company Appeal (AT) (CH) (Ins) No.202/2021
(IA No.406/2021)**

(Filed under Section 61 of the Insolvency and Bankruptcy Code, 2016)

**Arising out of the Impugned Order dated 29.01.2021 in
IA(IBC)/21/KOB/2021 in TIBA/03/KOB/2019, passed by the
'Adjudicating Authority', (National Company Law Tribunal,
Kochi Bench)**

In the matter of:

V K Vijayappann & 5 Ors.

...Appellants

V

Hindustan Newsprint Ltd. & 2 Ors.

...Respondents

WITH

**Company Appeal (AT) (CH) (Ins) No.344/2021
(IA No.712/2021)**

(Filed under Section 61 of the Insolvency and Bankruptcy Code, 2016)

**Arising out of the Impugned Order dated 29.01.2021 in
IA(IBC)/21/KOB/2021 in TIBA/03/KOB/2019, passed by the
'Adjudicating Authority', (National Company Law Tribunal,
Kochi Bench)**

In the matter of:

Tomy Augustine & Anr.

...Appellants

V

Hindustan Newsprint Ltd. & 2 Ors.

...Respondents

Present :

For Appellants : Ms. Jinnu Sara George, Advocate.
For Respondents : Mr. P.H. Arvindh Pandian, Sr. Advocate with
Mr. P.V. Vinod, Advocates for R-2.

ORDER
(Virtual Mode)

[Per: Justice Rakesh Kumar Jain (MJ)] (ORAL)

25.07.2023: Comp. App. (AT) (CH) (Ins.) No.124/2021:

Counsel for the Appellant has submitted that the Appellant does not want to pursue this Appeal, therefore, she has prayed that she may be allowed to withdraw the same. On her request, this Appeal is hereby dismissed as withdrawn.

Comp. App. (AT) (CH) (Ins.) Nos. 305, 114, 120, 121 & 123/2021:

1. This Order shall dispose of 5 Appeals namely *Comp. App. (AT) (CH) (Ins.) No. 305/2021*, *Comp. App. (AT) (CH) (Ins.) No.114/2021*, *Comp. App. (AT) (CH) (Ins.) No.120/2021*, *Comp. App. (AT) (CH) (Ins.) No.121/2021* & *Comp. App. (AT) (CH) (Ins.) No.123/2021*, because the issues involved in these Appeals are common.
2. However, the facts are being extracted from *Comp. App. (AT) (CH) (Ins.) No.121/2021* for the sake of convenience. RBL Bank filed an Application under Section 7 of the Insolvency and Bankruptcy Code, 2016, (for short 'The Code') as a Financial Creditor against Hindustan News Print

Limited ('Corporate Debtor') (hereinafter referred to as 'HNL'), which was admitted on 28.11.2019.

3. Shorn of unnecessary details, Kerala Industrial Infrastructure Development Corporation ('KINFRA') (State Government undertaking) has been the Successful Resolution Applicant ('SRA') in this case. The Resolution Plan was approved by the Tribunal on 29.01.2021.

4. It is an admitted case of the Parties that the Order dated 29.01.2021 was challenged by the similarly situated employees as well in **Comp. App. (AT) (CH) (Ins.) No.29/2021** reported as **(2023) 149 taxman.com 234**, titled as '**C.G. Vijayalakshmi**' Vs. '**Shri. Kumar Rajan Resolution Professional Hindustan Newsprint Limited**', in which the following decision has been taken:

"29. As regards the other allegations, raised by the Appellant with respect to undervaluation and the scope and performance of SRA in taking over the unit are sans evidence and this 'Tribunal', does not find any other 'material irregularity', in the 'Approval' of the 'Resolution Plan'. Rest of the prayers are declined and this 'Tribunal', does not find any other case / issue for interfering with the 'Order' of the 'Adjudicating Authority', approving the 'Resolution Plan', except for issuing this 'direction' to the 'Successful Resolution Applicant', to make payment of unpaid 'Provident Fund' and 'Gratuity Fund' and 'pending dues' to the 'Workmen' / 'Employees', till the date of 'Corporate Insolvency Resolution Process', after deducting the amount already paid towards 'Provident Fund', in the 'Resolution Plan', as per the principles laid down in 'Jet Aircraft

maintenance Engineers Welfare Association' (Supra), upheld by the Hon'ble Supreme Court in Civil Appeal No. 407/2023 dated 30.01.2023, which is the law of the land and is binding on all 'Courts' & 'Tribunals' of India."

5. Counsel for the SRA has submitted that the Order passed by this Tribunal on 08.02.2023 has been challenged by way of an Appeal before the Hon'ble Supreme Court vide Diary No.16859/2023, only in respect of the direction issued in this Order for making payment of Provident Fund and Gratuity Fund to the employees. Learned Sr. Counsel has submitted that the said Appeal has not yet been listed.

6. Be that as it may, the fact remains that this Court has already decided the issue involved in these Appeals in '**C.G. Vijayalakshmi**' (*Supra*), therefore, Counsel for the Appellant has submitted that these Appeals may also be disposed of in terms of the Order passed in '**C.G. Vijayalakshmi**' (*Supra*).

7. Counsel for the Respondents has not raised any objection this regard. At this stage, Counsel for the Appellant has also submitted that in the Order passed in '**C.G. Vijayalakshmi**' (*Supra*), the Tribunal had earlier not issued a direction to the RP to calculate the dues (Provident Fund and Gratuity Fund of the employees) in a time bound manner and to pay the same also in a particular time. Therefore, she has requested that in these cases a direction may also be issued to the Resolution Professional ('RP') to calculate the unpaid Provident Fund and Gratuity Fund of the employees within a

particular period as determined by this Tribunal and also for the purpose of making the payment thereof in a time bound manner.

8. Counsel for the Appellant has also submitted that the RP has not taken into consideration the fixed assets (land) owned by the Corporate Debtor and thus the asset of the Corporate Debtor has not been maximized. In this regard, it is submitted that though a Notice was issued by the District Collector on 08.01.2019 for resumption of the land, situated in two villages to which the Corporate Debtor gave the reply also on 27.01.2019 but thereafter a deed of conveyance was executed on 13.09.2022 on the basis of which the Corporate Debtor became the owner. She has referred to the details of the claims made as per the Information Memorandum and pointed out the value of plant and equipment and that the RP had raised the issue of the Resolution Plan in regard to the land in question which reads as under:

“1. The land to the extent of 282.86 hectors at Vellore and Mulakkulam Villages at Viakkom Taluk, Kottayam district, where HNL is housed, was acquired and transferred to Hindustan Paper Corporation Ltd., based on an article of agreement made between Governor of Kerala and Hindustan Paper Corporation Ltd. on 29.01.1979 under the provisions of the Kerala Land Acquisition Act, 1961. Consequent to the violation of clauses (c), (f) and 6 of the article of agreement, the District Collector, Kottayam has already issued notice, vide Letter No: DCKTM/9143/2019/GI dated 08th November, 2019 to HNL for resumption of the landed property to the extent of 282.89 hectors, where the HNL plant is housed.”

9. Counsel for the Respondent has submitted that the issue regarding undervaluation of the property in question has been determined in the earlier Appeal i.e., *Comp. App. (AT) (CH) (Ins.) No.29/2021* titled as '**C.G. Vijayalakshmi' Vs. 'Shri. Kumar Rajan Resolution Professional Hindustan Newsprint Limited'**', reported as (2023) 149 *taxman.com* 234, and therefore, the Appellants herein cannot raise the same issue again in these Appeals.

10. We have heard Counsel for the Parties and after perusal of record, are of the considered opinion that the issue raised by the Appellant has already been raised and determined in the earlier Appeal i.e., *Comp. App. (AT) (CH) (Ins.) No.29/2021*, therefore, the Appellants herein cannot be allowed to raise the issue in the present Appeals as it would be hit by the principle of *res-judicata*.

11. It is also pertinent to mention that the Order passed in the earlier Appeal i.e., *Comp. App. (AT) (CH) (Ins.) No.29/2021*, has not been challenged by the Appellant in the Hon'ble Supreme Court and has attained finality.

12. After perusal of record, we are of the considered opinion that these Appeals deserves to be disposed of in terms of the Orders passed in para 29 of the Judgement of this Tribunal in '**C.G. Vijayalakshmi' (Supra)**', with a

further direction to make the calculation and payment of the unpaid funds of the employees within a particular period.

13. Accordingly, all these Appeals are disposed off in terms of Order passed in para 29 of the case of '*C.G. Vijayalakshmi*' (*Supra*), and the RP is directed to calculate the unpaid dues of the employees in regard to the Provident Fund and Gratuity Fund within a period of two months in accordance with law and then communicate the same to the SRA who would make the payment after receipt of the calculation from the RP within a period of two months thereafter.

Comp. App. (AT) (CH) (Ins.) Nos. 23, 112, 115, 116, 117, 118,

119, 122, 124, 267, 283, 202 & 344/2021:

1. This Order shall dispose of a batch of 13 Appeals bearing *Comp. App. (AT) (CH) (Ins.) No.23/2021, Comp. App. (AT) (CH) (Ins.) No.112/2021, Comp. App. (AT) (CH) (Ins.) No.115/2021, Comp. App. (AT) (CH) (Ins.) No.116/2021, Comp. App. (AT) (CH) (Ins.) No.117/2021, Comp. App. (AT) (CH) (Ins.) No.118/2021, Comp. App. (AT) (CH) (Ins.) No.119/2021, Comp. App. (AT) (CH) (Ins.) No.122/2021, Comp. App. (AT) (CH) (Ins.) No.124/2021, Comp. App. (AT) (CH) (Ins.) No.267/2021, Comp. App. (AT) (CH) (Ins.) No.283/2021, Comp. App. (AT) (CH) (Ins.) No.202/2021 & Comp. App. (AT) (CH) (Ins.) No.344/2021*, because the issue involved in all

these Appeals is common. However, for the sake of convenience, the facts are being extracted from *Comp. App. (AT) (CH) (Ins.) No.118/2021*.

2. RBL Bank filed an Application under Section 7 of the Insolvency and Bankruptcy Code, 2016, (for short 'The Code') as a Financial Creditor against Hindustan News Print Limited ('Corporate Debtor') (hereinafter referred to as 'HNL'), which was admitted on 28.11.2019.

3. These Appeals have been preferred by the Operational Creditors (Suppliers) who are aggrieved against the Resolution Plan, on the ground that the Resolution Professional ('RP') has not taken into consideration the fixed assets (land) owned by the Corporate Debtor bearing 282.86 hectares and thus the asset of the Corporate Debtor has not been maximized.

4. In this regard, Counsel for the Appellant has submitted that though a Notice was issued by the District Collector on 08.01.2019 for resumption of the land in question (282.86 hectares) which is situated in two villages and to which the Corporate Debtor has given the reply on 27.01.2019 but thereafter a deed of conveyance was executed on 13.09.2022 on the basis of which the Corporate Debtor has become the owner. She has thereafter referred to the details of the claims made as per the Information Memorandum and pointed out that the value of the plant and equipment has been shown at Rs.13,189.76/- and that the RP has raised the issue of the Resolution Plan in regard to the land in question which read as under:

“1. The land to the extent of 282.86 hectares at Vellore and Mulakkulam Villages at Viakkom Taluk, Kottayam district, where HNL is housed, was acquired and transferred to Hindustan Paper Corporation Ltd., based on an article of agreement made between Governor of Kerala and Hindustan Paper Corporation Ltd. on 29.01.1979 under the provisions of the Kerala Land Acquisition Act, 1961. Consequent to the violation of clauses (c), (f) and 6 of the article of agreement, the District Collector, Kottayam has already issued notice, vide Letter No: DCKTM/9143/2019/GI dated 08th November, 2019 to HNL for resumption of the landed property to the extent of 282.89 hectares, where the HNL plant is housed.”

5. Counsel for the Respondent has submitted that the issue regarding undervaluation of the property in question has also been determined in the earlier Appeal i.e., *Comp. App. (AT) (CH) (Ins.) No.29/2021* titled as ***‘C.G. Vijayalakshmi’ Vs. ‘Shri. Kumar Rajan Resolution Professional Hindustan Newsprint Limited’***, reported as ***(2023) 149 taxman.com 234***, and therefore, the Appellants herein cannot raise the same issue again in these Appeals.

6. We have heard Counsel for the Parties and after perusal of record, are of the considered opinion that the issue raised by the Appellant has already been raised and determined in the earlier Appeal i.e., *Comp. App. (AT) (CH) (Ins.) No.29/2021*, therefore, the Appellants herein cannot be allowed to raise the issue in the present Appeals as it would be hit by the principle of *res-judicata*.

7. It is also pertinent to mention that the Order passed in the earlier Appeal i.e., *Comp. App. (AT) (CH) (Ins.) No.29/2021*, has not been challenged by the Appellant in the Hon'ble Supreme Court and has attained finality.

8. Thus, in view of the aforesaid facts and circumstances we do not find any merit in the present Appeals as the issue involved in this Appeals has already been decided in '*C.G. Vijayalakshmi*' (*Supra*), and the present Appeals are hereby disposed of in terms of the observations made in '*C.G. Vijayalakshmi*' (*Supra*).

9. It is also pertinent to mention at this stage that the Plan submitted by the SRA has been thoroughly implemented way back in 2021.

[Justice Rakesh Kumar Jain]
Member (Judicial)

[Mrs. Shreesha Merla]
Member (Technical)

HA / RR / NG