

NATIONAL COMPANY LAW TRIBUNAL

COURT ROOM NO. 1,

MUMBAI BENCH

Item No. 37

IA 1121/2024 IN C.P. (IB)/1336(MB)2022

CORAM:

SH. PRABHAT KUMAR

JUSTICE V.G. BISHT (Retd.)

HON'BLE MEMBER (TECHNICAL)

HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF THE HEARING ON **02.04.2024**

NAME OF THE PARTIES: **BANK OF MAHARASHTRA V/s MR NAZIM
FURNITUREWALA PERSONAL GUARANTOR TO
HANJER BIOTECH ENERGIES PVT LTD**

Section 95(1) of the Insolvency and Bankruptcy Code, 2016

ORDER

Adv. Aniruth Purushothaman for the Respondent is present. Adv. Raina Birla for the Financial Creditor present through VC.

IA 1121/2024

1. Ld. Counsel for the Personal Guarantor places reliance on the decision of Hon'ble NCLAT in the Gulabchand Jain V/s Punjab National Bank and Anr. in Company Appeal (AT) (Insolvency) No.416 of 2020, where the Hon'ble NCLAT held –

The benefit of Section 14 can be availed by a person when the proceedings which was filed before the earlier forum suffers from lack of jurisdiction or other similar cause. In the present case, it cannot be said that the proceedings before the DRT were suffering from any lack of jurisdiction. Hence, submission of counsel of the Respondent for extension of limitation on the basis of Section 14 cannot be accepted.

2. Ld. Counsel for the Personal Guarantor relies upon the DRT proceedings to defend the present petition is within the limitation period. We noted that the guarantee in this case was invoked on 4th August, 2014 and OA was filed before the DRT by the Counsel for the Financial Creditor. It is the case of the Financial Creditor that the period running from the filing of the OA before the DRT should be excluded for computation of limitation period proceeding before DRT is still pending.
3. However, the decision in the case of Gulabchand Jain (supra). We have no hesitation to hold that exclusion from in terms of Section 14 of the Limitation Act, could not be granted in case of proceedings pending before the DRT. Accordingly, the Company Petition is **dismissed**.

Sd/-
PRABHAT KUMAR
MEMBER (TECHNICAL)

Rehan Shaikh

Sd/-
JUSTICE V.G. BISHT
MEMBER (JUDICIAL)