

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI
Company Appeal (AT) (Insolvency) No. 989 of 2020

In the matter of:

Sandeep Sharma & Anr.Appellants
Vs.
Sunil Kumar Jain, Resolution Professional (RP) & Ors.Respondents

Present:

Appellants: Mr. Anant Malik, Mr. Sarthak Sharma and Mr. Gaurav Singh, Advocates.
Respondents: Mr. Vishal Agarwal, Advocate for R1.

ORDER

(Through Virtual Mode)

23.11.2020: Appellants, who are the members of the suspended Board of Directors of the Corporate Debtor- 'M/s. Vas Data Services Pvt. Ltd.', have preferred the instant appeal assailing the order dated 18th September, 2020 passed by the Adjudicating Authority (National Company Law Tribunal), New Delhi, Court-III by virtue whereof the Appellants' application alleging conducting of Corporate Insolvency Resolution Process not in accordance with law and the required information not having been provided to the Appellants came to be dismissed on the ground that since the Resolution Plan has been approved, the only option available to the Appellants was to object to the Resolution Plan, if any, genuine legal objection was available to them.

2. After hearing learned counsel for the Appellants, we find that the Appellants sought conducting of *de novo* Corporate Insolvency Resolution

Contd/-.....

Process from 7th meeting of the Committee of Creditors onwards including issuance of fresh Expression of Interest. The Adjudicating Authority has taken note of the fact that the Resolution Professional on 24th June, 2020 had asked the Appellants to file an undertaking to maintain confidentiality so that a copy of the proposed Resolution Plan could be provided to them. It appears that the undertaking was filed on 1st July, 2020 and a copy of the Resolution Plan was provided to the Appellants. It is only thereafter on 10th July, 2020, Committee of Creditors convened its meeting to consider the proposed Resolution Plan which came to be approved in its meeting conducted on 6th August, 2020. The Adjudicating Authority also took note of the fact that the Appellants had, apart from seeking records of minutes of meeting of the Committee of Creditors, also sought video recording of such meeting. In the context of the prayer made before the Adjudicating Authority that the Corporate Insolvency Resolution Process be relegated back to the stage of issuance of Expression of Interest, the Adjudicating Authority was justified in observing that the object of the Appellants was only to defeat the timelines and protract the Corporate Insolvency Resolution Process so that it does not reach its logical conclusion. We also find that the Adjudicating Authority took note of the fact that the copy of the proposed Resolution Plan had already been provided to the Appellants prior to the approval of the Resolution Plan and in the event of there being any objection, the Appellants were at liberty to raise their objection before the Committee of Creditors before approval of the Resolution Plan. The appropriate course left open to the Appellants, as of now, is to raise an issue before the Adjudicating Authority at

the stage of consideration of the Resolution Plan.

In the aforesaid circumstances, we are of the considered opinion that the issue raised, in the nature of material irregularity in the process of the Corporate Insolvency Resolution Process, is bereft of substance. The Appellants are at liberty to raise their grievances as regards the Committee of Creditors approved Resolution Plan not conforming to law when such Resolution Plan is taken up for consideration by the Adjudicating Authority under Section 31 of the Insolvency and Bankruptcy Code, 2016.

The appeal is accordingly dismissed in *limine*.

[Justice Bansi Lal Bhat]
Acting Chairperson

[Justice Anant Bijay Singh]
Member (Judicial)

[Shreesha Merla]
Member (Technical)

AR/g