

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI**

**I.A. No. 2366 of 2019 in**  
**Company Appeal (AT) (Ins) No. 481 of 2018**

**IN THE MATTER OF:**

**MV Projects**

**....Appellant**

**Vs.**

**Divya Jyoti Sponge Iron Pvt. Ltd. & Ors.**

**....Respondents**

**Present:**

**For Appellant: Mr. Swapnil Gupta, Advocate**

**For Respondents: Mr. Anuj Tiwari, Advocate**

**ORDER**

**31.07.2019:** Company Appeal (AT) (Ins) No. 481 of 2018 was heard along with other appeal Company Appeal (AT) (Ins) No. 156 of 2018, etc. In the said case this Appellate Tribunal by judgment dated 24.04.2019 upheld the Resolution Plan and passed accordingly following order at page 15 of the judgment:

*(i) The Appellant will file application before the 'Corporate Debtor' through the 'Successful Resolution Applicant' enclosing the copies of evidence/ invoices etc. in support of supply of goods (coal) during the period of 'Corporate Insolvency Resolution Process' i.e. during the date of admission onwards.*

*(ii) The 'Corporate Debtor' alongwith the 'Interim Resolution Professional' will verify the same and will pay the total admitted dues without any cut within 30 days, failing which, the 'Resolution Plan' may be held to be in violation of Section 30 (2) (a) of the 'I&B Code'.*

*(iii) The 'Corporate Debtor' through the 'Successful Resolution Applicant' if refuses the claim or part thereof, will communicate the ground to the Appellant.*

*(iv) If the refusal is not in accordance with law, it will be open to the Appellant to file an Interlocutory Application in this appeal to reopen the issue to decide whether the 'Resolution Plan' is in violation of Section 30 (2) (a) of the 'I&B Code' or not.*

Interlocutory Application no. 2366 of 2019 has been filed in the aforesaid disposed of appeal. In view of the clause 4 aforesaid this Appellate Tribunal allowed the appellant to reopen the issue to decide whether the resolution plan is in violation of Section 30 (2) (a) of the I&B Code or not.

Learned counsel appearing on behalf of Appellants/ Applicant (MV Projects) submits that a sum of Rs. 26,68,298/- was payable to the appellant for supply of goods during Corporate Insolvency Resolution Process. However, inspite of direction of Appellate Tribunal the Corporate Debtor/ Successful Resolution Applicant has released only a sum of Rs. 11,25,582/-.

Learned counsel appearing on behalf of Corporate Debtor /Successful Resolution Applicant referred to para 11 of Interlocutory Application which reads as follows:

*"It is submitted that it is not in dispute that the total admitted claim of the Applicant is Rs. 26,68,298/-. At the commencement of the CIRP of the Corporate Debtor, the amount of Rs. 15,42,716.90 was standing in the books and the Resolution Professional continued to maintain the running account of the Applicant and made payments from time to time."*

It is submitted that the total claim of the Appellant was Rs. 26,68,298/- but they have admitted that at the commencement of CIRP an amount of Rs.15,42,716.90 was standing in the books and the Resolution Professional continued to maintain the running account of the Applicant and made payment from time to time. Therefore, according to him Rs. 15,42,716.90 being satisfied in the books of accounts, as commensurate on of date CIRP (date of admission), said amount cannot be claimed to be amount of supply during the CIRP. The resolution plan has taken care of the same.

However, such submission has been disputed by the Appellant. From the submission made on behalf of the parties we find that as the amount is payable to appellants/MV Projects during the CIRP, the Corporate Debtor through Successful Resolution Applicant were allowed to go through the record as brought to its notice, as was ordered, along with the Interim Resolution Professional and will verify the sum and pay the admitted dues without any cut within 30 days. Therefore, it is stated on the basis of such direction that the claim of supply of goods during CIRP was verified.

In so far as the refusal of the same is concerned it is observed that it is not open to the Appellant to file I.A. to reopen the issue to decide whether the resolution plan is in violation of section 30 (2) (a) of the I&B code or not. We find that Corporate Debtor/ Successful Resolution Applicant has verified the records. This appellate tribunal is not able to reopen the issue about the disputed claim particularly in view of the statement made by the Appellant/ Applicant at Para 11 as quoted above. I.A. No. 2366 of 2019 stands disposed of.

[Justice S. J. Mukhopadhaya]  
Chairperson

[Justice Bansi Lal Bhat]  
Member (Judicial)

*sa/gc*

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