

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

**Company Appeal (AT) (Ins) No. 536 of 2019 &  
I.A. No. 1857 of 2019**

**IN THE MATTER OF:**

**IDBI Bank Ltd.**

**....Appellant**

**Vs.**

**Anuj Jain**

**....Respondents**

**IRP, JaypeeInfratech Ltd. &Anr.**

**Present:**

Mr. Ramji Srinivasan, Sr. Advocate with Mr. Bishwajit Dubey, Mr. UdayKhare, Ms. SurabhiKhattar, Mr. Aditya Marwah, Ms. Sylona, Mr. Nikhil, Ms. Vislalakshmi and Mr. R.K. Sinha, Advocates for IDBI Bank & Secured Financial Creditors

Mr. SumantBatra, Ms. Niharika Sharma, Ms. JannhviBhasin and Mr. Akshit Kapoor, Advocates for RP

Mr. L.K. Bhushan, Advocate for Fixed Deposit Holder

Mr. Hemant Kumar Singh, Advocate for Home Buyer

**With**

**Company Appeal (AT) (Ins) No. 708 of 2019**

**IN THE MATTER OF:**

**Jaypee Greens Krescent Home Buyers Welfare  
Association &Ors.**

**....Appellants**

**Vs.**

**JaypeeInfratech Ltd.**

**....Respondent**

**Through Anuj Jain, Interim Resolution Profession**

**Present:**

Mr. Amit K. Mishra and Mr. Shivam Pandey, Advocates

Mr. Ramji Srinivasan, Sr. Advocate with Mr. Bishwajit Dubey, Mr. UdayKhare, Ms. SurabhiKhattar, Mr. Aditya Marwaha, Advocates for IDBI Bank & Secured Financial Creditors

Mr. SumantBatra, Ms. Niharika Sharma, Ms. JannhviBhasin and Mr. Akshit Kapoor, Advocates for RP.

Mr. HarinRawal, Sr. Advocate with Mr. Mahesh Agarwal, Ms. Aastha Mehta and Mr. Rajeev Kumar, Advocates for Adani Infrastructure

Mr. Yogesh Sharma, ED with Mr. RonvijayGohain, Mr. A.K. Pandey, Advocates for NBCC.

## ORDER

**17.07.2019:** This Appellate Tribunal by its order dated 12.07.2019 passed in Company Appeal AT (Ins) No. 708 of 2019 made observations that 'Corporate Insolvency Resolution Process' may be decided differently in the case of the infrastructures, Companies, as the assets mainly meant for allottees. This Appellate Tribunal observed that in such case the maximization of assets may not be of the Corporate Debtor, but will be of the allottees and other financial creditors. It was also observed that resolution plan should be viable and feasible for the allottees and other stakeholders.

Learned counsel appearing on behalf of the lenders (Banks and Financial institutions) submits that there was a confusion about the counting of voting shares of the allottees, as 'explanation' below Section 5 (8) of the I&B Code was introduced subsequently. For clarification of the same an application was filed before the Adjudicating Authority on 17.09.2018 and after difference of opinion and subsequent decision by Hon'ble Third Member of the National Company Law Tribunal the voting share of allottees was decided on 04.06.2019. In between the aforesaid period the Committee of Creditors could not approve any resolution plan. Therefore, request has been made to exclude the aforesaid period from 17.09.2018 to 04.06.2019 for the purpose of counting the total period of 270 days of resolution process.

It is submitted that if such order of exclusion of such period is passed, it will be advantageous to all the stakeholders, particularly the allottees and the Corporate debtor will not undergo liquidation.

Having heard learned counsel appearing on behalf of the lenders (Banks and Financial Institutions) we allow the learned counsel of the lenders (Banks and Financial Institutions) to file an affidavit by 19<sup>th</sup> July, 2019, showing terms and conditions, as may be imposed, if fresh resolution plans are allowed to be accepted, after exclusion of the aforesaid period.

Post the case under the heading 'for orders' for further hearing on **22<sup>nd</sup> July, 2019 at 3.30 P.M.**

[Justice S.J. Mukhopadhaya]  
Chairperson

[Justice Bansi Lal Bhat]  
Member (Judicial)

*sa/gc*

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