

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Ins) No. 139 of 2018

IN THE MATTER OF:

Vishal Vijay KalantriAppellant

Vs.

DBM Geotechnics & Constructions Pvt. Ltd. & Anr.Respondents

Present:

For Appellant: Mr. Amit Singh Chadha, Sr. Advocate with Ms. Neeha Nagpal, Ms. Srishti Govil and Mr. Vishvendra Tomar, Advocates

For Respondents: Mr. Gourab Banerji, Sr. Advocate with Ms. Aditi Sharma and Mr. Raka Chatterjee, Advocates
Mr. Kunal Vajan, Mr. Paras Anand and Mr. Jaibir Singh Sethi, Advocates for RP.
Mr. Abhishek Puri and Mr. Raghav Shekhar, Advocates

With

Company Appeal (AT) (Ins) No. 697 of 2019

IN THE MATTER OF:

Adani Ports and Special Economic Zone Ltd.Appellant

Vs.

Mr. Shailen Shah,Respondents
RP of Dighi Port Ltd. & Ors.

Present:

For Appellant: Mr. Arun Kathpalia, Sr. Advocate with Mr. Mahesh Agarwal, Mr. Ananth, Ms. Aanchal Mullick, Mr. Anirudh Bhatia and Mr. Shaishir Divatia, Advocates
Mr. Rajeev Kumar, Advocate

For Respondents: Mr. Satendra K.Rai and Mr. Pranav Vyas, Advocates
for R-1
Ms. Mahima Singh, Advocate for R-3

With

Company Appeal (AT) (Ins) No. 698 of 2019

IN THE MATTER OF:

Adani Ports and Special Economic Zone Ltd.Appellant

Vs.

**Mr. Shailen Shah,Respondents
RP of Dighi Port Ltd. & Ors.**

Present:

**For Appellant: Mr. Arun Kathpalia, Sr. Advocate with Mr. Mahesh
Agarwal, Mr. Ananth, Ms. Aanchal Mullick, Mr. Anirudh
Bhatia and Mr. Shaishir Divatia, Advocates**

For Respondents:

With

Company Appeal (AT) (Ins) No. 722 of 2019

IN THE MATTER OF:

Mr. Vishal Vijay KalantriAppellant

Vs.

Dighi Port Ltd. & Ors.Respondents

Present:

**For Appellant: Mr. Amit Singh Chadha, Sr. Advocate with Ms. Neeha
Nagpal, Ms. Srishti Govil and Mr. Vishvendra Tomar,
Advocates**

For Respondents:

ORDER

21.08.2019: The matter was earlier taken up on 24.07.2019 after hearing the counsel for the parties. We allow Appellant 'Vishal Vijay Kalantri' Director and other promoters of 'Dighi Port Ltd.' (Corporate Debtor) three weeks time to state whether the 'Financial Creditors' have agreed to settle the claim. If such

proposal is made, 'Committee of Creditors'/ 'Financial Creditors' and other 'Operational Creditors', if any, may consider the same. Though four weeks have passed, no settlement has been reached in terms of Section 12 (a) of the I&B Code.

Mr. Amit Singh Chadha, Learned senior counsel appearing on behalf of 'Vishal Vijay Kalantri' submitted that the matter has been pending consideration of 'Committee of Creditors'.

Mr. Arun Kathpalia, learned senior counsel appearing on behalf of 'Adani Ports and Special Economic Zone' submitted that its resolution plan has already been filed which should be considered by the 'Committee of Creditors'.

Mr. Gourab Banerji, learned senior counsel appearing on behalf of the 'Committee of Creditors' referred to the amended proviso 3 inserted in Section 12 of I&B Code as inserted by amendment No. 4 by Gazette Notification dated 06.08.2019. It is submitted that notification given effect since 16.08.2019 and as per the Proviso the total proceeding shall be completed within the period of 90 days including the period taken by the Adjudicating Authority. It is submitted that the 'Committee of Creditors' may be allowed to consider all the resolution plans in the meantime.

Taking into consideration the amendment in Section 12 of the I&B Code, we are not inclined to give any time to the parties and intend to hear the case on merit. However, in the meantime, in absence of any stay, the process of resolution may continue for another approximately 90 days, including the

period of de-termination by the Adjudicating Authority. We allow the Appellant 'Vishal Vijay Kalantri'/ Promoters to settle the matter within two weeks.

In the meantime, pending such settlement, the 'Committee of Creditors' will consider all the plans pending before it and after taking into consideration the viability and feasibility and other terms as fixed by the court and amended Section 30 (2) & (4) will approve one or the other plan. While approving so 'Committee of Creditors' will consider as to whether the plan as may be approved is better than the proposal as given by the Promoters/ Appellant, taking into consideration the viability and feasibility and financial matrix of all resolution plans. It is accepted that the matter will be decided within three weeks.

Post these appeals for further hearing under the heading 'for orders' on **19th September, 2019** at **2.00 P.M.** on the top of the list.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

sa/gc