

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

**Company Appeal (AT) (Insolvency) No. 491 of 2020**

**In the matter of:**

**NTPC Ltd. (Sipat Project)**

**....Appellant**

**Vs.**

**Rajiv Chakraborty**

**I.R.P. of Era Infra Engineering Ltd.**

**....Respondent**

**With**

**Company Appeal (AT) (Insolvency) No. 492 of 2020**

**In the matter of:**

**NTPC Ltd. (Formally Known as  
National Thermal Power Corporation Ltd.)**

**....Appellant**

**Vs.**

**Rajiv Chakraborty**

**I.R.P. of Era Infra Engineering Ltd.**

**....Respondent**

**With**

**Company Appeal (AT) (Insolvency) No. 493 of 2020**

**In the matter of:**

**NTPC Ltd. (Simhadri Project)**

**....Appellant**

**Vs.**

**Rajiv Chakraborty**

**I.R.P. of Era Infra Engineering Ltd.**

**....Respondent**

**With**

**Company Appeal (AT) (Insolvency) No. 494 of 2020**

**In the matter of:**

**NTPC Ltd. (Ramagundam Project)**

**....Appellant**

**Vs.**

**Rajiv Chakraborty**

**I.R.P. of Era Infra Engineering Ltd.**

**....Respondent**

**With**

**Company Appeal (AT) (Insolvency) No. 495 of 2020**

**In the matter of:**

**Aravali Power Company Pvt. Ltd.**

**....Appellant**

**Vs.**

**Rajiv Chakraborty**

**I.R.P. of Era Infra Engineering Ltd.**

**....Respondent**

**Present:**

**Appellant: Mr. Adarsha Tripathi and Mr. Anish Gupta, Advocates.**

**Respondents: Mr. Mohit Kishore, Advocate.**

**ORDER**

**(Through Virtual Mode)**

**02.06.2020:** The Appellants in this batch of five appeals are the 'Operational Creditors' aggrieved of the impugned order dated 10<sup>th</sup> February, 2020 passed by the Adjudicating Authority (National Company Law Tribunal), Principal Bench, New Delhi in CP (IB)- No. 190(PB)2017 by virtue whereof the Adjudicating Authority dismissed the applications moved by the Appellants observing that the information relating to the disputes with the 'Corporate Debtor' including the disputes with respect to claims arising out of loss or damages shall be reflected in the Information Memorandum. The impugned order is assailed primarily on the ground that the claim filed by the Appellants

in regard to debts due and payable in future could not be rejected and such claim could be filed as held by this Appellate Tribunal in **“Andhra Bank v. F.M. Hammerle Textile Ltd.- Company Appeal (AT) (Insolvency) No. 61 of 2018”**.

Assailing of the impugned order with prayer to admit the claim of Appellants- ‘Operational Creditors’ cannot be permitted in view of the fact that the ‘Resolution Professional’ is not an Adjudicating Authority who is empowered to admit or reject a claim, his job being confined to collecting and collating of claims and incorporating the same in the Information Memorandum. It is significant to note that unlike a Liquidator empowered as an Adjudicating Authority to determine the claims, the ‘Resolution Professional’ is merely concerned with collecting and collating of claims which in essence means collecting all information in regard to claims as ascertainable from various sources including books of account of the ‘Corporate Debtor’ and Information Utility and other evidence and verifying the same before its incorporation in the Information Memorandum. The Resolution Professional is not an Adjudicating Authority empowered to admit or reject a claim and no mechanism in the nature of an appeal providing against such determination is available within the Resolution Process as is provided in liquidation proceedings under Section 40 of the Insolvency and Bankruptcy Code, 2016. Admission or rejection of a claim can be looked into when Resolution Plan is being considered and when Resolution Professional moves an application under Section 31 before the Adjudicating Authority for approval of the Resolution Plan. It is at that stage that the Adjudicating Authority has to examine whether the interest of all stakeholders has been taken care of. The Judgment of this Appellate Tribunal relied upon by the Appellants has no application as it pertains to claims of ‘Financial Creditors’ maturing in future.

These appeals emanating from the ‘Operational Creditors’ and maturity of any claims arising in future neither being asserted nor made out, apprehensions of the Appellants are unfounded in as-much-as the

Adjudicating Authority has taken care to direct the Resolution Professional to incorporate information relating to such claims, even if disputed in the Information Memorandum.

In view of this legal position, we are of the considered opinion that the prayer in the appeals cannot be acceded to at this stage when the Resolution Process is underway and has not fructified into approval of a Resolution Plan. Moreover, the Adjudicating Authority has already taken care of the apprehensions of Appellants in so far as incorporation of the claims as regards loss and damages claimed to be 'operational debt' in Information Memorandum is concerned.

We find no merit in these appeals. These are accordingly dismissed. We make it clear that we have not expressed any opinion in regard to admissibility or otherwise of the claims set up by the Appellants who shall be at liberty to raise the issue in regard thereto before the Adjudicating Authority at the appropriate stage.

Interim direction, if any, shall stand vacated.

**[Justice Bansi Lal Bhat]  
Acting Chairperson**

**[Justice Anant Bijay Singh]  
Member (Judicial)**

**[Dr. Ashok Kumar Mishra]  
Member (Technical)**

*AR/gc*