

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

**Company Appeal (AT) (Insolvency)No.816 of 2019**

**IN THE MATTER OF:**

**Shapoorji Pallonji & Co. Pvt. Ltd.**

**.....Appellant**

**Vs.**

**Korba West Power Company Ltd. & Anr.**

**.....Respondents**

**Present :**

**For Appellant:**

**Mr. Abhijeet Sinha, Ms. Rashmi Gagoi, Mr. Pallav  
Pandey, Mr. Pragalbh Bhardwaj, Advocates**

**O R D E R**

**09.08.2019** - Having heard learned counsel for the Appellant and being satisfied with the ground, delay of 13 days in preferring the appeal is hereby condoned. I.A. No. 2467 of 2019 stands disposed of.

2. Learned Counsel for the Appellant submits that the 'Successful Resolution Applicant' / 'Committee of Creditor' have provided nil amount against the total claim of Rs. 45 crores with respect to the amount. Earlier 3 '*Arbitration Proceedings*' were initiated between the Appellant and 'Corporate Debtor' which are pending and could not proceed in view of the order of Moratorium passed u/s 14 of the Insolvency & Bankruptcy Code, 2016 ('I&B' Code, for short).

....contd.

3. The 'Resolution Professional' collated claims and because of the pendency of the '*Arbitration Proceedings*' came to a conclusion that the claim of the Appellant is nil. It is resulted in allocating 0% of payment in favour of the Appellant / 'Operational Creditor'. On the other hand, other 'Operational Creditors' have been paid 35.79% of their claimed amount, therefore, according to the learned counsel for the Appellant either he should have been paid 35.79% of the claimed amount, which is pending Arbitration or in the alternative should be allowed to pursue the '*Arbitration Proceedings*' in terms of Section 60(6) of the 'I&B' Code. Period of Moratorium has been completed and the claim of the Appellant has not been settled.

4. Learned Counsel for the Appellant is allowed to implead 'M/s. Adani Power Ltd.' - 'Successful Resolution Applicant' and lead Bank of the 'Committee of Creditors' as party Respondent Nos. 3 and 4 respectively. Necessary corrections be made in the cause title and main paper book in course of the day.

5. Let notice be issued on the Respondents and newly impleaded Respondent Nos. 3 and 4 by speed post. Requisite along with process fee, if not filed, be filed by 14<sup>th</sup> August, 2019. If the appellant provides the e-mail address of the respondent, let notice be also issued through e-mail.

....contd.

Post the case for 'admission' (after notice) on **5<sup>th</sup> September, 2019** within five cases before the **1<sup>st</sup> Bench at 2.00 P.M.**

The appeal may be disposed of at the stage of admission.

[Justice S. J. Mukhopadhaya]  
Chairperson

[Justice A. I. S. Cheema]  
Member (Judicial)

[Kanthi Narahari]  
Member (Technical)

ss/sk

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