

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

**Company Appeal (AT) (Insolvency) No. 410 of 2019**

**IN THE MATTER OF:**

**Maharashtra State Electricity Distribution Co. Ltd.                      ...Appellant**

**Vs.**

**Phoenix Erectors Pvt. Ltd. & Anr.    ...Respondents**

**Present:      For Appellant: - Mr. Joy Basu, Senior Advocate with  
Ms. Pallavi Sharma and Mr. Kanak Bose, Advocates.**

**For Respondents: - Mr. Sameer Abhyankar, Mr. Sangram  
Singh R. Bhonsle, Mr. Siddharth Mehta, Ms. Samridhi  
Jain, Mr. Akshay Joshi and Mr. Aditu Dongrawat,  
Advocates.**

**O R D E R**

**27.05.2019—** Learned counsel for the Appellant submits that inadvertently wrong impression was given that the Appellant is a 'Financial Creditor' and percentage of it was wrongly informed on the earlier date.

2. It is submitted that the Appellant is 'Operational Creditor' who has supplied electricity but was discriminated in the matter of payment.

3. Learned counsel appearing on behalf of the Respondents while submitted that the appeal is time barred, also submits that the same very impugned order dated 13<sup>th</sup> July, 2018 fell for consideration before this

Appellate Tribunal in ***"Sales Tax Department, State of Maharashtra Vs. Phoenix Erectors Pvt. Ltd. & Ors.— Company Appeal (AT)***

Contd/-.....

***(Insolvency) No. 559 of 2018 etc.***” wherein this Appellate Tribunal by its judgment dated 20<sup>th</sup> March, 2019 upheld the impugned order on the ground that similarly situated ‘Operational Creditors’ have been equated and treated in a similar manner.

4. Learned counsel for the Respondent- ‘Successful Resolution Applicant’ further submits that all the ‘Financial Creditors’ have been given 17.8% of their debts whereas all the ‘Operational Creditors’ have been provided with 17.5% of their debts.

5. From the aforesaid fact, we find that both the ‘Financial Creditors’ and the ‘Operational Creditors’ *inter se* have been given same treatment and no discrimination has been made.

6. For the reasons aforesaid, we are not inclined to interfere with the impugned order. The appeal is dismissed. No costs.

(Justice S.J. Mukhopadhaya)  
Chairperson

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

(Kanthi Narahari)  
Member(Technical)

Ar/g