

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 732 of 2018

IN THE MATTER OF:

Nathella Depositors Welfare Association

...Appellant

Versus

**Union of India, Through its Secretary,
Ministry of Finance**

...Respondent

Present:

For Appellant : Ms. Salonee Agarwal, Advocate

ORDER

30.11.2018 This appeal has been preferred by Nathella Depositors Welfare Association against order dated 23rd April, 2018 passed by the Adjudicating Authority (National Company Law Tribunal), Division Bench, Chennai whereby and whereunder the 'Committee of Creditors' has been allowed to recommend the name and to appoint a new 'Resolution Professional' and thereby opined that the recommendations made by the 'Corporate Debtor' for appointment of 'Interim Resolution Professional' as 'Resolution Professional'.

Learned counsel appearing on behalf of the appellant submits that the depositors of the 'Corporate Debtor' have formed the 'welfare association'. According to her the depositors may not be treated as 'Operational Creditors' but in view of the decision of the Hon'ble Supreme Court in '*Chitra Sharma vs. Union of India*' in 'Writ Petition (Civil) No. 744 of 2017' depositors should also be treated at par with the allottees of house and thereby they should be treated as 'Financial Creditors'. However, such submission cannot be accepted as the amount deposit

by the depositors do not come within the definition of 'financial debts' as defined under Section 5(8) of the I&B Code. However, taking into consideration the fact that large number of depositors have deposited the amount with the 'Corporate Debtor' and they come within the meaning of 'creditors', we expect that when the 'resolution plan' will be filed by 'Resolution Applicant' or taken into consideration by the 'Committee of Creditors', they will consider whether the 'Resolution Applicant' has made provision for the depositors or in terms of the provisions of the I&B Code and the decision rendered by this Appellate Tribunal in '**Binani Industries Ltd. vs. Bank of Baroda & Anr.**' and other connected appeals.

The appeal stands disposed of with the aforesaid observations. No cost.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

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