

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

**Company Appeal (AT) (Insolvency) No. 1029 of 2019**

**IN THE MATTER OF:**

**Victory Apartments Private Limited** **...Appellant**

**Versus**

**Diamond Traexim Private Limited**  
**& Anr.** **...Respondents**

**Present:**

**For Appellant :** **Mr. Ashutosh Gupta and Mr. Abhishek Aggarwal,**  
**Advocates**

**For Respondents :** **Mr. Gursat Singh, Advocate**  
**Mr. Shubmo Jana and Mr. Arpit Arora, Advocates**  
**With Mr. Narender Kumar Sharma, R.P.**

**O R D E R**

**14.11.2019** The 'Diamond Traexim Private Limited' (Financial Creditor) filed an application under Section 7 of the 'Insolvency and Bankruptcy Code, 2016 (for short, 'the I&B Code') for initiation of 'Corporate Insolvency Resolution Process' against 'Indirapuram Habitat Centre Private Limited' (Corporate Debtor). The Adjudicating Authority (National Company Law Tribunal), Principal Bench, New Delhi taking into consideration the 'debt' and 'default', admit the application by impugned order dated 22<sup>nd</sup> August, 2019. The Appellant is a 'Shareholder' of the 'Corporate Debtor'. Learned counsel appearing on behalf of the Appellant submits that no opportunity was given to it. However, from the record we find that the 'Corporate Debtor' was noticed and heard number of learned counsel appeared on behalf of the 'Corporate Debtor' and objected the application filed under Section 7 of the 'I&B Code'.

Therefore, in this background, there is no requirement to give notice to all the 'Shareholders'.

Next, it was contended that the Appellant is agreed to settle the matter.

Mr. Gursat Singh, Advocate appears on behalf of the 'Diamond Traexim Pvt. Ltd.' (Financial Creditor). He submits that he has no objection if the matter is settled.

Mr. Shubmo Jana, the learned counsel appears on behalf of the 'Resolution Professional' and Mr. Narender Kr. Sharma, Resolution Professional is also present in the Court, who states that he has already received the claims from about 1500 persons.

Having heard the Learned counsel for the parties, we find no illegality in the impugned order dated 22<sup>nd</sup> August, 2019.

However, as a matter relates to 'Infrastructure Project' and the number of allottees are dependent on it and it may take about 180 days to 270 days for operating the process and thereafter if the resolution is successful then the 'successful resolution applicant' may take time to complete the project. Therefore, we are of the view that one opportunity can be given to the 'Promoters'/'Shareholders' of the 'Corporate Debtor' to settle the matter. If the 'Promoters'/'Shareholders' proposed to complete the project within the timeframe which is '180 days' or '270 days' or '330 days' and also satisfied the other lenders i.e. 'Financial Institutions' and 'operational creditors. Therefore, we allow the Appellant/Promoter to submit a claim before the 'Committee of Creditors' in terms of Section 12A giving timeframe of completion of the project; allotment of terms to one or other allottees after following the 'Real Estate Regulatory Authority Act (RERA) and may give a time frame by which it intends to pay the

dues of other creditors like 'Financial Institutions (Financial Creditors) and 'Operational Creditors'. If such scheme is given within a month, the 'Committee of Creditors' will consider the matter by E-vote. The proposal be filed by the 'Resolution Professional' who may file it before the 'Committee of Creditors'.

The Appeal stands disposed of with aforesaid observations and directions.

No costs.

[Justice S.J. Mukhopadhaya]  
Chairperson

[Justice Venugopal M.]  
Member (Judicial)

/ns/gc