

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

**Company Appeal (AT) (Insolvency) No. 1458 of 2019**

**IN THE MATTER OF:**

**Dhananjay Pralhad Salunkhe Patil**

**...Appellant**

**Versus**

**New Phaltan Sugar Works Ltd.**

**...Respondent**

**Present:**

**For Appellant :**           **Dr. Dinesh Rattan Bhardwaj, Advocate**

**For Respondent :**       **Mr. Basava P. Patil, Senior Advocate with**  
**Mr. Jatin Zaveri and Mr. Neel Kamal Mishra,**  
**Advocates**

**O R D E R**

**19.12.2019**       The grievance of the Appellant is that the Appellant has been treated as ‘unsecured financial creditor’ by the ‘Resolution Professional’. Against the said decision, the Appellant moved an application before the Adjudicating Authority (National Company Law Tribunal) Mumbai Bench, Mumbai which rejected the application by impugned order dated 23<sup>rd</sup> October, 2019.

Learned counsel appearing on behalf of the Appellant submits that the impugned order is not a speaking order and the Adjudicating Authority has held that the detailed order will follow.

However, we find, on the basis of the record, that the ‘Resolution Professional’ and the ‘Committee of Creditors’ noticed that the Appellant’s claim of ‘Secured Creditor’ rests on movable properties and not on any immoveable properties as there is no security interest on immovable properties and pledge in respect of immoveable properties cannot be claimed. The ‘Resolution

Professional' and the 'Committee of Creditors' held that the Appellant - 'Financial Creditor' is not a 'secured creditor'.

Whether the Appellant is a 'secured creditor' or not, is a question of fact and it can be decided by the 'Resolution Professional' and any decision further can be taken by the 'Committee of Creditors'. The Adjudicating Authority (National Company Law Tribunal) or 'National Company Law Appellate Tribunal' cannot sit over the decision of the 'Resolution Professional' or 'Committee of Creditors in this regard.

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 Bansilal Bhat]  
Member (Judicial)

/ns/gc