

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 1078 of 2019

IN THE MATTER OF:

**Amit Gupta,
RP of Unimark Remedies Ltd.**

...Appellant

Versus

Corporation Bank & anr.

...Respondent

Present:

For Appellant :

**Ms. Pooja Mahajan and Ms. Avni Shrivastav,
Advocates**

O R D E R

17.10.2019 The Appellant – ‘Resolution Professional’ has preferred this appeal against the split order dated 30th August, 2019 delivered on 11th September, 2019 and the said matter has arises out of the ‘Corporate Insolvency Resolution Process’ initiated against ‘Unimark Remedies Ltd.’ (Corporate Debtor).

The case of the Appellant is that the ‘Resolution Professional’ has filed the ‘resolution plan’ as approved by the ‘Committee of Creditors’ with 72.25% of the voting share. However, in the meantime, one dissenting ‘Financial Creditor’ raised question as to valuation. While one of the Hon’ble Member (Judicial) by impugned order ask for fresh valuation but the other Hon’ble Member (Technical) dissented by separate order (page 68). It is submitted that thereafter none of the Hon’ble Member has referred the matter to the President, National Company Law Tribunal for referring the matter to the third Hon’ble Member.

In the facts and circumstances, we are of the view that ‘Resolution Professional’ should bring this fact to the notice of the said Bench of the

Adjudicating Authority comprising of the same Members i.e. Mr. Bhaskara Pantula Mohan, Member (J) and Mr. V. Nallasenapathy, Member (Technical) who will take steps to refer the matter to the third Member in accordance with law and if so required, after necessary permission of the Hon'ble President, National Company Law Tribunal. The 'Resolution Professional' will also bring this fact to the notice of the President, National Company Law Tribunal who may pass the appropriate order to place the matter before the third Member.

In view of the fact that there is a dissenting order passed by the two Members, we are not considering the question of legality and propriety of the order or the adverse remarks passed against the 'Resolution Professional', which is left open for determination by the 3rd Hon'ble Member and if so required later it may be decided by this Appellate Tribunal.

The appeal stands disposed of with aforesaid observations.

[Justice S.J. Mukhopadhaya]
Chairperson

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

[Kanthi Narahari]
Member (Technical)

/ns/gc