

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI
Company Appeal (AT) (Insolvency) No. 722 of 2018

IN THE MATTER OF:

Mr. Rajshekar Totakura **...Appellant**

Vs

Mr. Sanjay Kumar Dewani, RP **....Respondent**

Present:

For Appellant: Mr. Dhruv Madan and Mr. Devansh A. Mohta, Advocates.

**For Respondents: Mr. Sanjay Kumar Dewani, Resolution Professional.
Mr. Rajat Juneja, Advocate for CoC.**

ORDER

29.11.2018: This appeal has been preferred by 'Mr. Rajshekar Totakura', Promoter of 'M/s Rajpur Hydro Power Pvt. Ltd.' (Corporate Debtor) against order dated 27th September, 2018 passed by the Adjudicating Authority, Chandigarh Bench, Chandigarh, whereby and whereunder the application under Section 60(5) filed by 'M/s Kirloskar Brothers Ltd.' and intervention application and other application preferred by the Appellant has been disposed of, the Resolution Plan submitted by the Resolution Professional under Section 31(1) of the Insolvency and Bankruptcy Code, 2016 (for short 'I&B Code') has been approved and thereby the Resolution Plan submitted by 'M/s Dolphin Energy Enterprises' has been approved and accepted.

2. Learned counsel appearing on behalf of the Appellant submitted that there are only two members of the Committee of Creditors one 'PTC India Financial Services Ltd.' having 99.67% of voting share and another 'Seashells Infrastructure Pvt. Ltd.' having 0.33% of voting share. Relying on Para No. 7 of the compliance certificate in Form H, resolution plan was approved by the Committee of Creditors with 100% voting share. It was submitted that the Resolution Plan is discriminatory and do not fulfill the criteria as laid down by this Appellate Tribunal in '*Binani Industries Limited Vs Bank of Baroda & Anr. and other appeals*' in Company Appeal (AT) (Insolvency) No. 82 of 2018, etc.

3. It was further submitted that the Insolvency Resolution Process was initiated at the instance of one of the financial creditor having due of Rs.10 Lakh. According to Appellant there were better resolution plans which were on record but the Committee of Creditors have approved the Resolution Plan submitted by 'M/s Dolphin Energy Enterprises' which is not balancing all the stakeholders and other creditors.

4. Learned counsel appearing on behalf of the Committee of Creditors while disputed the aforesaid submission submitted that appeal at the instance of Corporate Debtor is not maintainable. However, from the cause title we find that the appeal has been in fact preferred by the Promoter of the Corporate Debtor.

5. We have heard learned counsel for the parties and perused the record. The Resolution Plan which has been approved relevant portion of the same has been taken into consideration by the Adjudicating Authority. From the said Resolution Plan we find that Secured Creditors have been provided with 12.56% of the amount claimed and Unsecured Creditors have been provided with 11.19% of the amount claimed, the Operational Creditors though claimed amount of Rs.3969.30 Lakh but admitted amount was found to be Rs.149.80 Lakh. Against the Resolution Plan none of the Operational Creditor have raised any objection nor moved before this Appellate Tribunal. It is the Promoter of the Corporate Debtor who has preferred this appeal, who is not entitled to any amount not being a creditor. For the aforesaid reason, we are not inclined to interfere with the impugned order. We find no merit in this appeal. It is accordingly dismissed. No costs.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

am/uk

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