

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 1437 of 2019

IN THE MATTER OF:

Mr. Kaushal Ramesh Mehta **...Appellant**

Vs.

Metallica Industries Ltd. & Ors. **...Respondents**

Company Appeal (AT) (Insolvency) No. 1438 of 2019

IN THE MATTER OF:

Mr. Pratik Ramesh Mehta **...Appellant**

Vs.

Metallica Industries Ltd. & Ors. **...Respondents**

Present: For Appellants: - Mr. Saurabh Suman Sinha, Advocate.

**For Respondents: - Mr. Sandeep Sharma, Advocate for
IRP.**

O R D E R

02.01.2020— According to Appellant(s), they have made an arrangement/ agreement with the 'Corporate Debtor' for purchase of a part of the Gala (Project) in their favour which was rejected by the 'Resolution Professional'. The 'Resolution Professional' has not accepted them as 'Secured Financial Creditor'.

2. In these appeals, while such submission has been made, Appellant(s) have challenged the order dated 16th October, 2019 passed by the Adjudicating Authority (National Company Law Tribunal), Mumbai

Contd/-.....

Bench, Mumbai, whereby the 'Resolution Plan' approved with 85.89% voting share of the 'Committee of Creditors' have been approved by the Adjudicating Authority.

3. Sub-Section (3) of Section 61 of the 'I&B Code' provides the grounds on which a 'Resolution Plan' approved can be challenged by any aggrieved person, which is as follows:

"61. Appeals and Appellate Authority.—

.....(3) An appeal against an order approving a resolution plan under section 31 may be filed on the following grounds, namely:—

- (i) the approved resolution plan is in contravention of the provisions of any law for the time being in force;*
- (ii) there has been material irregularity in exercise of the powers by the resolution professional during the corporate insolvency resolution period;*
- (iii) the debts owed to operational creditors of the corporate debtor have not been provided for in the resolution plan in the manner specified by the Board;*
- (iv) the insolvency resolution process costs have not been provided for repayment in priority to all other debts; or*
- (v) the resolution plan does not comply with any other criteria specified by the Board."*

4. In both the appeals as the Appellant(s) have failed to make out any of the grounds as mentioned in Section 61(3), we are not inclined to interfere with the plan approved by the Adjudicating Authority. This apart, in absence of any privity of contract between the Appellant(s) and the 'Corporate Debtor', no relief can be granted.

In absence of any merit, both the appeals are dismissed. No costs.

(Justice S.J. Mukhopadhaya)
Chairperson

(Justice Bansi Lal Bhat)
Member(Judicial)

Ar/G