

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 16 of 2019

IN THE MATTER OF:

Kotak Mahindra Prime Ltd.

...Appellant

Vs

Rave Scans Pvt. Ltd. & Ors.

...Respondents

Present:

For Appellant: Mr. Janender Kr. Chumbak and Ms. Asmita Duggal, Advocates.

For Respondents:

ORDER

08.01.2019: Corporate Insolvency Resolution Process was initiated against 'M/s Rave Scans Pvt. Ltd.' on 25th January, 2017. After following all the process including publishing advertisement calling for claims; preparation of information memorandum; constitution of Committee of Creditors; Resolution Plans were filed and the Committee of Creditors approved a resolution plan with 75% voting share. The Resolution Professional placed the same before the Adjudicating Authority (National Company Law Tribunal), Principal Bench, New Delhi for its approval under Section 31. At this stage a large number of objections were raised by different persons including the objection from some tenant whose application was simultaneously disposed of by the impugned order dated 17th October, 2018.

2. The Appellant – 'Kotak Mahindra Prime Ltd.' claims to be the Financial Creditor but failed to file any claim before Resolution Professional nor brought his grievance to the notice of Adjudicating Authority or the member of Committee of Creditors, within time and before approval of plan by the Committee of Creditors.

3. From the record we find that the Corporate Insolvency Resolution Process was initiated on 25th January, 2017. When the advertisement was issued, no claim was filed by 'Kotak Mahindra Prime Ltd.'. It is submitted that subsequently

in the end of the process it filed claim before the Resolution Professional. From the record we find that no grievance was raised by 'Kotak Mahindra Prime Ltd.' before the Adjudicating Authority nor it filed any application under Sub-section (5) of Section 60 raising any grievance relating to non-inclusion of 'Kotak Mahindra Prime Ltd.' as member of Committee of Creditors or treating it as a Financial Creditor.

4. In this background, after approval of the Resolution Plan that too after rejection of four resolution plans and earlier remand, it is not open to the Appellant to move an appeal under Section 61(3) of the I&B Code. The Appellant has failed to explain the delay and laches on its part in making any claim pursuant to publication of advertisement or to move before the Adjudicating Authority against its demand. Appeal is dismissed with aforesaid observation. No costs.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

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