

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

**Company Appeal (AT) (Ins) No. 461 of 2019**

**IN THE MATTER OF:**

**Chhatisgarh Distilleries Ltd.**

Having its registered office at:  
610, "O" Block,  
New Alipore, Kolkata – 700 053

**...APPELLANT**

**Versus**

**1.Dushyant Dave**

(Resolution Professional of  
Anand Distilleries Pvt. Ltd)  
1101, Dalmal Tower, Free Press  
Journal Marg, Nariman Point,  
Mumbai – 400 021 Maharashtra

**...Respondent No.1**

**2.Dera Finvest Pvt. Ltd.**

201, M.G.House, R.T.Road,  
Civil Lines,  
Nagpur – 440001, Maharashtra.

**...Respondent No.2**

**3.Punjab National Bank**

Plot No.4, Sector – 10 Dwarka,  
New Delhi 110 075

**...Respondent No.3**

**4.Anand Distilleries Pvt. Ltd.**

Bapat Chowk, Amravati,  
Maharashtra – 444 601

**... Respondent No.4**

**Present:**

**For Appellant:- Ms.Anannya Ghosh, Advocate.**

**For Respondent: - Mr. Anoop Prakash Awarthi Advocate for Respondent No.1, Mr. Jatin Kumar and Ms. Shreya Seth, Advocate for Respondent No.2 and 4. Mr. Rajesh Gautam and Mr. Anant Gautam, Advocate for Financial Creditor and Mr. Prashant.S.Kenjale, Advocate for Intervener.**

**With**

**Company Appeal (AT) (Ins) No.613 of 2019**

**IN THE MATTER OF:**

**Mr.Abhay**

S/o Anand Bhamore,  
Suspended Director of  
M/s.Anand Distilleries Pvt. Ltd  
(presently undergoing Corporate Insolvency Process)  
R/o.Bapat Chowk, Amravati,  
Maharashtra - 444 601

**...APPELLANT**

**Versus**

**1.Dushyant Dave**

(Resolution Professional of  
Anand Distilleries Pvt. Ltd)  
1101, Dalma Tower, Free Press  
Journal Marg, Nariman Point,  
Mumbai - 400 021 Maharashtra

**...Respondent No.1**

**2.Dera Finvest Pvt. Ltd.**

201, M.G.House, R.T.Road,  
Civil Lines,  
Nagpur - 440001, Maharashtra.

**...Respondent No.2**

**3.Punjab National Bank**

Plot No.4, Sector - 10 Dwarka,  
New Delhi 110 075

**...Respondent No.3**

**4.Anand Distilleries Pvt. Ltd.**

Bapat Chowk, Amravati,  
Maharashtra – 444 601

... Respondent No.4

**Present:**

**For Appellant:- Ms.Sunanda Tulsyan, Advocate with Mr.Abhay.S, Ex-Director of the Appellant.**

**For Respondent:- Mr. Anoop Prakash, Advocate for Resolution Professional Mr. Jatin Kumar, Advocate for R2 & R4.**

**Note:-** In compliance of the order dated 03.06.2020, typographical error in Company Appeal (AT) (Ins) No. 461 of 2019 i.e. the name of Respondent Counsel Jain Kumar is corrected as Jatin Kumar and in Company Appeal (AT) (Ins) No. 613 of 2019 inadvertently, name of counsel of Respondent No. 2 to 4 was not mentioned, so it is mentioned in the title page.

**J U D G M E N T**

*[29<sup>th</sup> May, 2020]*

**JARAT KUMAR JAIN, J.**

Appellant M/s Chhatisgarh Distilleries Ltd (in short A-1), a second Resolution applicant and Abhay (in short A-2) erstwhile promoter and director of the Corporate Debtor have filed these appeals against the common order dated 08.04.2019 passed by Adjudicating Authority (National Company Law Tribunal) Mumbai Bench in MA 1363/2018 and MA 602/2019 in CP No.1095/I&B/NCLT/MAH/2017 whereby the Adjudicating Authority allowed the application (MA 1363/2018) under Section 30(6) read with Section 31(1) of Insolvency & Bankruptcy Code, 2016 filed by Resolution Professional and approved the plan whereas rejected the MA No.602/2019 filed by the A-1 and also rejected the objections filed by A-2.

2. Brief facts of the case are that the CP No.1095/I&B/NCLT/MAH/2017 was filed by Punjab National Bank under Section 7 of I&B Code for initiation of

Corporate Insolvency Resolution Process against Anand Distilleries Pvt Ltd, Corporate Debtor. The petition was admitted by the Adjudicating Authority vide order dated 14.2.2018. The Committee of Creditors confirmed the appointment of IRP, Mr Dushyant C Dave as Resolution Professional in their first meeting held on 20.03.2018. The 180 days for CIRP was further extended by the Adjudicating Authority, for another 90 days vide order dated 9.8.2018.

3. The RP on 17.5.2018 published advertisement inviting Expression of Interest till 16.6.2018 in all India edition of Business Standard, Dainik Bhaskar and Nagpur edition of Deshonnati. As no plan was received till 16.6.2018 again the public notice was issued in newspapers and last date for submission of Expression of Interest was 30.07.2018 and the same was extended twice first till 30.9.2018 and subsequently till 15.10.2018. The Resolution Professional received resolution plan from three resolution applicants. After following due procedure the final resolution plan submitted by the Resolution applicant Dera Finvest Pvt Ltd was approved by 98.72% of the COC in the e-voting conducted on 1.11.2018-2.11.2018. Thereafter the RP on 5.11.2018 filed MA No.1363/2018 under section 30(6) of the I&B Code placing the resolution plan as approved by the COC before the Adjudicating Authority.

4. According to the valuation reports, the liquidation value of the corporate debtor is Rs.22.78 crores and the fair market value of the corporate debtor is Rs.32.48 crores. As compared to this, the amount offered in the Resolution Plan

is Rs.23.51 crores apportioned to all the stakeholders which is more than the average liquidation value.

5. The erstwhile promoter and director of the corporate debtor (i.e. A-2) objected the resolution plan stating among many other grounds that the successful resolution applicant is ineligible under Section 29 A of I&B Code as the licence approved in favour of the corporate debtor cannot be transferred to any other entity as per the provisions of State Excise Act and this would frustrate the purpose of the resolution applicant. During the pendency of the application, on 31.1.2019 the Hon'ble Supreme Court has pronounced the judgement and given directions that the erstwhile Board of Directors may furnished with a copy of resolution plan so that they can participate effectively in the Meeting of COC. Adjudicating Authority found that before pronouncement of judgement COC has already approved resolution plan. However, the copy of the resolution plan has been furnished to the erstwhile promoter/director. After due consideration the Adjudicating Authority rejected the objections of the erstwhile promoter/director.

6. Appellant Chhatisgarh Distilleries Ltd (i.e. A-1) filed an application (MA No. 602/2019) under section 60(5) of I&B Code before Adjudicating Authority on 5.11.2018 seeking direction to submit its resolution plan for consideration of the resolution professional and COC under Section 30(3) of I&B Code. It is stated that once the plan is submitted before the Adjudicating Authority then the CIRP period stopped running and thus the A-1's application be considered as filed

within the subsistence of the CIRP period. It is also stated that the A-1 shall invest approximately Rs.52.50 crores which consists of Rs.35.60 crores towards liability of the corporate debtor and Rs.12.90 crores towards capital investment for upgradation of the plant of the corporate debtor and Rs. 4 crores towards working capital for the corporate debtor.

7. After elaborate discussions, Adjudicating Authority rejected the application on two grounds, firstly the A-1 has come after the submissions of approved resolution plan to the Adjudicating Authority and secondly the COC or RP has not sought any relief to recall the approved resolution plan and for allowing them to reconsider the approved resolution plan along with the new resolution plan offering better value. Adjudicating Authority suo moto cannot direct the COC to consider the new resolution plan and re-consider the already approved resolution plan. As the decision of the COC accepting or rejecting the resolution plan is limited to the grounds mentioned in Section 30(2) and purely commercial decision of COC cannot be adjudicated by the Adjudicating Authority. Thus Adjudicating Authority rejected the application of the A-1, and approved the plan by the impugned order.

8. Learned counsel for the A-1, submitted that submission of resolution plan with the Adjudicating Authority does not ipso facto vest any right of the resolution applicant (Respondent No.2) nor does it divest the Adjudicating Authority of its powers under the I&B Code.

9. It is also submitted that the I&B Code mandate to maximise the value of corporate debtor, hence the Adjudicating Authority was bounden to direct the resolution professional and COC to consider the A-1's proposal undisputedly A-1 is offering much better terms. Thus the order passed by the Adjudicating Authority is liable to be set aside

10. Learned counsel representing A-2 submits that Adjudicating Authority has erred by not considering that the A-2 vide letter dated 29.1.2019 has already proposed a one time settlement of a sum of Rs.27 crores to the Respondent No.3 bank which is higher than a sum of Rs.23.51 crores offered by the Respondent No.2 (resolution applicant). It is also submitted that the Adjudicating Authority has summarily rejected the objections of the A-2 observing the same are not supported by any specific averment and are generally stated. It is also submitted that the liquor licence granted to A-2 under the Bombay Prohibition Act, 1949 and Maharashtra Excise Manual is not transferable which would render the resolution applicant ineligible under Section 29A of the I&B Code. Thus the impugned order is liable to be set aside.

11. On the other hand learned counsel representing RP (Respondent no.1) submits that these appeals are filed under Section 61(3) of the I&B Code. Section 61(3) of I&B Code provides the grounds on which the order for approving of resolution plan under Section 31 of I&B Code can be challenged. None of these grounds are mentioned in the Memo of appeals and appellants have not pointed out on which ground they have challenged the approved resolution plan.

12. Learned counsel for the Respondent No.1 also submits that apart from this legal objection admittedly A-1 has submitted resolution plan before Adjudicating Authority on 13.2.2019, much later the last date for submission of the resolution plan i.e. 15.10.2018. Once the resolution plan is approved by the COC then certainly the Adjudicating Authority cannot direct the COC/RP to consider the plan submitted by another resolution applicant. It is also submitted that after approval of the resolution plan A-1 has no locus to challenge the resolution plan by way of an appeal. Thus the appeal is liable to be dismissed.

13. Learned counsel for the Respondent No.1 submitted that the Adjudicating Authority after elaborate discussions rightly rejected the objections raised by A-2, hence he has also no locus to challenge the approved plan.

14. Learned counsel for Respondent No.2 representing successful Resolution Applicant submits that as per approved plan he has deposited the substantial amount and there is no merit in these appeals, therefore, the appeals be dismissed.

15. We have considered the submissions of Learned counsel for the parties.

16. The Hon'ble Supreme Court in the Case of Committee of Creditor of Essar Steel India Ltd. Vs. Satish Gupta & Ors. 2019 SCC Online SC 1478, ruled the scope of judicial review by the Adjudicating Authority and powers of Appellate Tribunal. Therefore, we would like to refer the relevant Paragraphs which reads as under:



*“Jurisdiction of the Adjudicating Authority and the Appellate Tribunal*

45. As has already been seen hereinabove, it is the Adjudicating Authority which first admits an application by a financial or operational creditor, or by the corporate debtor itself under [Section 7, 9 and 10](#) of the Code. Once this is done, within the parameters fixed by [the Code](#), and as expounded upon by our judgments in [Innoventive Industries Ltd. v. ICICI Bank](#), (2018) 1 SCC 407 and [Macquarie Bank Ltd v. Shilpi Cable Technologies Ltd.](#) (2018) 2 SCC 674, the Adjudicating Authority then appoints an interim resolution professional who takes administrative decisions as to the day to day running of the corporate debtor; collation of claims and their admissions; and the calling for resolution plans in the manner stated above. After a resolution plan is approved by the requisite majority of the Committee of Creditors, the aforesaid plan must then pass muster of the Adjudicating Authority under [Section 31\(1\)](#) of the Code. The Adjudicating Authority’s jurisdiction is circumscribed by [Section 30\(2\)](#) of the Code. In this context, the decision of this court in *K. Sashidhar (supra)* is of great relevance.

46. In *K. Sashidhar (supra)* this Court was called upon to decide upon the scope of judicial review by the Adjudicating Authority. This Court set out the questions to be determined as follows:

“18. Having heard learned counsel for the parties, the moot question is about the sequel of the approval of the resolution plan by the CoC of the respective corporate debtor, namely KS&PIPL and IIL, by a vote of less than seventy five percent of voting share of the financial creditors; and about the correctness of the view taken by the NCLAT that the percentage of voting share of the financial creditors specified in Section 30(4) of the I&B Code is mandatory. Further, is it open to the adjudicating authority/ appellate authority to reckon any other factor (other than specified in [Sections 30\(2\)](#) or 61(3) of the I&B Code as the case may be) which, according to the resolution applicant and the stakeholders supporting the resolution plan, may be relevant?”

xxx xxx xxx

25. The Court, however, was not called upon to deal with the specific issue that is being considered in the present cases namely, the scope of judicial review by the adjudicatory authority in relation to the opinion expressed by the CoC on the proposal for approval of the resolution plan.”

47. After advertng to the 2016 Regulations, the Court set out the jurisdiction of the Adjudicating Authority as well as the Appellate Tribunal as follows:

*“42. Whereas, the discretion of the adjudicating authority (NCLT) is circumscribed by Section 31 limited to scrutiny of the resolution plan “as approved” by the requisite percent of voting share of financial creditors. Even in that enquiry, the grounds on which the adjudicating authority can reject the resolution plan is in reference to matters specified in Section 30(2), when the resolution plan does not conform to the stated requirements. Reverting to Section 30(2), the enquiry to be done is in respect of whether the resolution plan provides: (i) the payment of insolvency resolution process costs in a specified manner in priority to the repayment of other debts of the corporate debtor, (ii) the repayment of the debts of operational creditors in prescribed manner, (iii) the management of the affairs of the corporate debtor, (iv) the implementation and supervision of the resolution plan, (v) does not contravene any of the provisions of the law for the time being in force,*

*(vi) conforms to such other requirements as may be specified by the Board. The Board referred to is established under Section 188 of the I&B Code. The powers and functions of the Board have been delineated in Section 196 of the I&B Code. None of the specified functions of the Board, directly or indirectly, pertain to regulating the manner in which the financial creditors ought to or ought not to exercise their commercial wisdom during the voting on the resolution plan under Section 30(4) of the I&B Code.*

*The subjective satisfaction of the financial creditors at the time of voting is bound to be a mixed baggage of variety of factors. To wit, the feasibility and viability of the proposed resolution plan and including their perceptions about the general capability of the resolution applicant to translate the projected plan into a reality. The resolution applicant may have given projections backed by normative data but still in the opinion of the dissenting financial creditors, it would not be free from being speculative. These aspects are completely within the domain of the financial creditors who are called upon to vote on the resolution plan under Section 30(4) of the I&B Code.*

43. For the same reason, even the jurisdiction of the NCLAT being in continuation of the proceedings would be circumscribed in that regard and more particularly on account of Section 32 of the I&B Code, which envisages that any appeal from an order approving the resolution plan shall be in the manner and on the grounds specified

in Section 61(3) of the I&B Code. Section 61(3) of the I&B Code reads thus:

*“61. Appeals and Appellate Authority.-(1) Notwithstanding anything to the contrary contained under the [Companies Act, 2013](#) (18 of 2013), any person aggrieved by the order of the Adjudicating Authority under this part may prefer an appeal to the National Company Law Appellate Tribunal.*

*(2) xxx xxx xxx (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.*

*xxxxxxxxxx.”*

44. On a bare reading of the provisions of the I&B Code, it would appear that the remedy of appeal under [Section 61\(1\)](#) is against an “order passed by the adjudicating authority (NCLT)” - which we will assume may also pertain to recording of the fact that the proposed resolution plan has been rejected or not approved by a vote of not less than 75% of voting share of the financial creditors. Indubitably, the remedy of appeal including the width of jurisdiction of the appellate authority and the grounds of appeal, is a creature of statute. The provisions investing jurisdiction and authority in the NCLT or NCLAT as noticed earlier, has not made the commercial decision exercised by the CoC of not approving the resolution plan or rejecting the same, justiciable. This position is reinforced from the limited grounds specified for instituting an appeal that too against an order “approving a resolution plan” under [Section 31](#). First, that

*the approved resolution plan is in contravention of the provisions of any law for the time being in force. Second, there has been material irregularity in exercise of powers “by the resolution professional” during the corporate insolvency resolution period. Third, the debts owed to operational creditors have not been provided for in the resolution plan in the prescribed manner. Fourth, the insolvency resolution plan costs have not been provided for repayment in priority to all other debts. Fifth, the resolution plan does not comply with any other criteria specified by the Board. Significantly, the matters or grounds*

*- be it under [Section 30\(2\)](#) or under Section 61(3) of the I&B Code - are regarding testing the validity of the “approved” resolution plan by the CoC; and not for approving the resolution plan which has been disapproved or deemed to have been rejected by the CoC in exercise of its business decision.*

*45. Indubitably, the inquiry in such an appeal would be limited to the power exercisable by the resolution professional under Section 30(2) of the I&B Code or, at best, by the adjudicating authority (NCLT) under [Section 31\(2\)](#) read with 31(1) of the I&B Code. No other inquiry would be permissible. Further, the jurisdiction bestowed upon the appellate authority (NCLAT) is also expressly circumscribed. It can examine the challenge only in relation to the grounds specified in Section 61(3) of the I&B Code, which is limited to matters “other than” enquiry into the autonomy or commercial wisdom of the dissenting financial creditors. Thus, the prescribed authorities (NCLT/NCLAT) have been endowed with limited jurisdiction as specified in the I&B Code and not to act as a court of equity or exercise plenary powers.*

*46. In our view, neither the adjudicating authority (NCLT) nor the appellate authority (NCLAT) has been endowed with the jurisdiction to reverse the commercial wisdom of the dissenting financial creditors and that too on the specious ground that it is only an opinion of the minority financial creditors. The fact that substantial or majority percent of financial creditors have accorded approval to the resolution plan would be of no avail, unless the approval is by a vote of not less than 75% (after amendment of 2018 w.e.f. 06.06.2018, 66%) of voting share of the financial creditors. To put it differently, the action of liquidation process postulated in Chapter-III of the I&B Code, is avoidable, only if approval of the resolution plan is by a vote of not less than 75% (as in October, 2017) of voting share of the financial creditors. Conversely, the legislative intent is to uphold the opinion or hypothesis of the minority dissenting financial creditors. That must prevail, if it is not less than the specified percent (25% in October, 2017; and now after the*

*amendment w.e.f. 06.06.2018, 44%). The inevitable outcome of voting by not less than requisite percent of voting share of financial creditors to disapprove the proposed resolution plan, de jure, entails in its deemed rejection.*

*xxx xxx xxx*

*49. The argument, though attractive at the first blush, but if accepted, would require us to re-write the provisions of the I&B Code. It would also result in doing violence to the legislative intent of having consciously not stipulated that as a ground - to challenge the commercial wisdom of the minority (dissenting) financial creditors. Concededly, the process of resolution plan is necessitated in respect of corporate debtors in whom their financial creditors have lost hope of recovery and who have turned into non-performer or a chronic defaulter. The fact that the concerned corporate debtor was still able to carry on its business activities does not obligate the financial creditors to postpone the recovery of the debt due or to prolong their losses indefinitely. Be that as it may, the scope of enquiry and the grounds on which the decision of "approval" of the resolution plan by the CoC can be interfered with by the adjudicating authority (NCLT), has been set out in [Section 31\(1\)](#) read with [Section 30\(2\)](#) and by the appellate tribunal (NCLAT) under [Section 32](#) read with [Section 61\(3\)](#) of the I&B Code. No corresponding provision has been envisaged by the legislature to empower the resolution professional, the adjudicating authority (NCLT) or for that matter the appellate authority (NCLAT), to reverse the "commercial decision" of the CoC muchless of the dissenting financial creditors for not supporting the proposed resolution plan. Whereas, from the legislative history there is contra indication that the commercial or business decisions of the financial creditors are not open to any judicial review by the adjudicating authority or the appellate authority.*

*51. Suffice it to observe that in the I&B Code and the regulations framed thereunder as applicable in October 2017, there was no need for the dissenting financial creditors to record reasons for disapproving or rejecting a resolution plan. Further, as aforementioned, there is no provision in the I&B Code which empowers the adjudicating authority (NCLT) to oversee the justness of the approach of the dissenting financial creditors in rejecting the proposed resolution plan or to engage in judicial review thereof. Concededly, the inquiry by the resolution professional precedes the consideration of the resolution plan by the CoC. The resolution professional is not required to express his opinion on matters within the domain of the financial creditor(s), to approve or reject the resolution plan, under [Section 30\(4\)](#) of the I&B Code. At best, the*

*Adjudicating Authority (NCLT) may cause an enquiry into the “approved” resolution plan on limited grounds referred to in [Section 30\(2\)](#) read with Section 31(1) of the I&B Code. It cannot make any other inquiry nor is competent to issue any direction in relation to the exercise of commercial wisdom of the financial creditors - be it for approving, rejecting or abstaining, as the case may be. Even the inquiry before the Appellate Authority (NCLAT) is limited to the grounds under Section 61(3) of the I&B Code. It does not postulate jurisdiction to undertake scrutiny of the justness of the opinion expressed by financial creditors at the time of voting. To take any other view would enable even the minority dissenting financial creditors to question the logic or justness of the commercial opinion expressed by the majority of the financial creditors albeit by requisite percent of voting share to approve the resolution plan; and in the process authorize the adjudicating authority to reject the approved resolution plan upon accepting such a challenge. That is not the scope of jurisdiction vested in the adjudicating authority under Section 31 of the I&B Code dealing with approval of the resolution plan.”*

*48. Thus, it is clear that the limited judicial review available, which can in no circumstance trespass upon a business decision of the majority of the Committee of Creditors, has to be within the four corners of [Section 30\(2\)](#) of the Code, insofar as the Adjudicating Authority is concerned, and [Section 32](#) read with [Section 61\(3\)](#) of the Code, insofar as the Appellate Tribunal is concerned, the parameters of such review having been clearly laid down in *K. Sashidhar (supra)*.”*

17. In the light of the above pronouncement of Hon’ble Supreme Court, we have examined the issues raised in these Appeals. Admittedly, the A-1 filed its resolution plan before the Adjudicating Authority on 13.02.2019 whereas, the last date for submission of Resolution Plan before RP was 15.10.2018. Resolution plan of successful Resolution Applicant i.e. Dera Finvest Pvt. Ltd. (R-2) was approved by 98.72 % of the Committee of Creditor in e-voting conducted on 01.11.2018 and 02.11.2018. When the Resolution Plan is filed before the Adjudicating Authority then the Authority has to satisfy that the Resolution Plan

approved by the Committee of Creditor fulfills the requirements as specified in Sub-Section 2 of Section 30. However the Adjudicating Authority cannot direct the CoC to consider the second Resolution plan submitted before the Authority although the second Resolution Applicant is ready to invest more amount in comparison to first Resolution Applicant. Learned Adjudicating Authority has rightly held that Adjudicating Authority cannot suomotu direct the CoC to consider new resolution plan and reconsider already approved Resolution plan. The Hon'ble Supreme Court in the above referred judgment held that under Section 30(2) of I&B Code, decision of Committee of Creditor is purely Commercial and cannot be adjudicated by the Adjudicating Authority. Thus, we are of the view that Adjudicating Authority is well within its jurisdiction while rejecting the application of A-1.

18. Now, we have considered the scope of Appeal and Jurisdiction of the Appellate Tribunal.

19. The Hon'ble Supreme Court in the case of Essar Steel India Ltd. (Supra) held that the Jurisdiction of the NCLAT being in continuation of the proceedings would be circumscribed in that regard and more particularly, on account Section 32 of the I&B Code, which envisages that any Appeal from order approving the Resolution Plan shall be, in the manner and on the grounds specified in Section 61 (3) of I&B Code.

20. The A-1 has not taken any of the grounds specified in S.61 (3) of the I&B Code in the memo of Appeal. Even, during the course of argument learned Counsel for A-1, was unable to convince us that the appeal is filed on any of the

grounds provided u/s 61(3) of the I & B Code. The Hon'ble Supreme Court held that undoubtedly the inquiry in such Appeal would be limited to the power exercisable by the Resolution professional under Section 30(2) of the I&B Code, which are at the best by the Adjudicating Authority under Section 31(2) read with section 31(1) of the I&B Code, no other enquiry would be permissible. Further, the jurisdiction bestowed upon the Appellate Authority is also expressly circumscribed. It can examine the challenge only in relation to the grounds specified in Section 61(3) of the I&B Code, which is limited to matter (other than enquiry into autonomy or commercial wisdom of the descending Financial Creditor). Thus, the prescribed Authority (NCLT/NCLAT) have been endowed with limited Jurisdiction has specified in the I&B Code, and not to act as a Court of enquiry are exercised plenary powers.

21. With the aforesaid, we are of the view that the second Resolution Applicant, A-1 has failed to satisfy that the Appeal is maintainable on any of the grounds provided in Section 61(3) of the I&B Code.

22. Now, we have considered the Appeal of erstwhile Promotor and Director they have also failed to point out any of the grounds provided in Section 61(3) of the I&B Code.

23. Learned Counsel for the A-1 raised issue that the Resolution Plan is submitted before the Adjudicating Authority for approval thereafter, the limitation of 180 days is stopped.



24. We have gone through the I&B Code, we could not find any such provision that during the pendency of approval of plan the limitation for CIRP process will stop.

25. Learned Adjudicating Authority while considering the Application M.A No. 602/2019 elaborately assigned the reasons for rejecting the Application. Thus we are in agreement with the order of the Adjudicating Authority.

26. With the aforesaid, we find no ground to interfere in the impugned order. Hence the impugned order is upheld and resultantly the Appeals are dismissed. However, no order as to costs.

**(Justice Jarat Kumar Jain)**  
**Member (Judicial)**

**(Mr. Balvinder Singh)**  
**Member (Technical)**

**(Dr. Ashok Kumar Mishra)**  
**Member (Technical)**

**NEW DELHI**  
**SC**