

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 214-215 of 2019

IN THE MATTER OF:

State Bank of India

...Appellant

Vs

Brijender Singh Deswal & Ors.

....Respondents

Present:

For Appellant: Mr. Jitendra Kumar, Advocate.

For Respondents: Mr. Nibruti Samal, Advocate for R-1.

ORDER

23.04.2019: The Appellant – ‘State Bank of India’ is member of Committee of Creditors having 70.17% voting right. When the question raised as to who will pay the corporate insolvency resolution costs incurred by the Interim Resolution Professional/ Operational Creditor, the Adjudicating Authority (National Company Law Tribunal) New Delhi Bench passed following order:-

“ORDER

Notice to the CMD of State Bank of India who is the major constituent of the COC in this case. The COC has not reimbursed the RP/Operational Creditor. The grievance in the present case is the reluctance of the SBI, a major constituent of the COC having 71.7% of the voting rights, to share the initial CIR costs incurred by the IRP/Operational Creditor. Upon appointment of the RP, the initial costs have to be defrayed by the COC which would be recoverable as the CIR

costs. Their defiance to meet the costs is unacceptable. Last opportunity is being granted to them for necessary compliance failing which their right to stake their claim would have serious consequences and may culminate in notice to the Ministry of Finance and the regulator RBI.

Mr. Alok Kumar, Counsel is present on their behalf. He is directed to ensure payment is made.

Ms. Nibruti Samal, Ld. Counsel appearing for the RP submits that no cooperation has been extended by the Ex-Directors other than giving the old financial data of 2016.

Notice to be issued to the Ex-Directors to be present in Court on 27th February, 2019. Dasti”

2. Having heard learned counsel for the Appellant we find no ground to interfere with the substantive part of the impugned order dated 20th February, 2019. It has already been made clear that the initial cost is to be defrayed by the Committee of Creditor which will be recoverable as CIR costs.

3. Other order dated 6th February, 2019 relates to extension of Corporate Insolvency Resolution Process period, which has been allowed. However, such part of the order is not under challenge. The grievance of the Appellant is with

regard to the reimbursement of amount to the Interim Resolution Professional/
Creditor. The said order having now merged with order dated 20th February,
2019, we find no reason to interfere with order dated 6th February, 2019.

4. So far fee of Interim Resolution Professional is concerned this Appellate
Tribunal having already directed by order dated 5th March, 2019, no further
order required to be issued. If the resolution cost incurred by Interim Resolution
Professional has been ratified and fee has been determined by the Committee of
Creditors, such amount be released. The appeal stands disposed of with
aforesaid observations. No costs.

[Justice S. J. Mukhopadhaya]
Chairperson

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

(Kanthi Narahari)
Member (Technical)

am/gc