NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 42 of 2019

IN THE MATTER OF:

Edelweiss Asset Reconstruction Company Ltd.

...Appellant

Vs.

TATA Capital Financial Services Ltd. & Anr.

...Respondents

Present:

For Appellant: - Mr. Amit Sibal, Senior Advocate with Mr. Arjun Krishnan, Mr. Kaustav Som, Ms. Khushboo Mittal, Mr. Vinay Tripathi and Mr. Saksham Dhingra, Advocates.

For Respondents: - Mr. Ramji Srinivasan, Senior Advocate with Mr. Abhishek Anand and Mr. Anant A. Pavgi, Advocates.

Ms. Mansi Kukreja, Advocate for R-1.

ORDER

22.05.2019— After initiation of the 'Corporate Insolvency Resolution Process' against 'Arohi Infrastructure Private Limited'- ('Corporate Debtor'), the Appellant who claimed to be 'Financial Creditor' filed claim before the 'Resolution Professional'. The 'Resolution Professional' on collating the claim, disallowed the claim, against which the Appellant preferred application under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 ("I&B Code" for short) which has been rejected by the impugned order dated 29th November, 2018.

2. When the matter was taken up, it is informed that before filing of the appeal, the Adjudicating Authority (National Company Law Tribunal), Special Bench, Chennai, has passed order of liquidation of the Company on 5th December, 2018, which is not under challenge. Now, the claimants

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are required to file claim before the Liquidator which the Appellant has already filed.

- 3. In the circumstance, we hope and trust that the Liquidator will decide the claim in accordance with law following the procedures laid down under Sections 37, 38 & 39 of the '1&B Code' and pass appropriate order under Section 40 uninfluenced by its earlier order.
- 4. It is needless to say that if any adverse decision is taken, it is open for the aggrieved person to file application under Section 60(5) before the Adjudicating Authority. The Liquidator is to keep in mind that while admitting or rejecting the claims under Section 40 of the 'l&B Code', he has to act as Quasi-Judicial Authority and will have to pass a reasoned order for perusal of the Adjudicating Authority.
- 5. In view of the similar order having passed by the Adjudicating Authority, we are not interfering with the same.

The appeal stands disposed of with aforesaid observations and directions.

(Justice S.J. Mukhopadhaya) Chairperson

> (Justice A.I.S. Cheema) Member(Judicial)

> > (Kanthi Narahari) Member(Technical)

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