

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

**Company Appeal (AT) (Insolvency) No. 876 of 2019**

**IN THE MATTER OF:**

Sanjay Kumar Ruia ..... Appellant

Vs

Catholic Syrian Bank Ltd. & Anr. .... Respondents

**Present:**

**For Appellant: Ms. Pallavi Tayal Chadda, Advocate.**

**For Respondents:**

**O R D E R**

**11.09.2019** This Appeal has been preferred by Sanjay Kumar Ruia, the 'Resolution Professional' with prayer for direction to pass appropriate order relating to his fees and cost of 'Resolution Process' in the light of decision of this Appellate Tribunal dated 3<sup>rd</sup> January, 2019 in ***Company Appeal (AT) (Insolvency) No.560 of 2018.***

2. The Adjudicating Authority (National Company Law Tribunal), Mumbai Bench by impugned order dated 8<sup>th</sup> May, 2019 passed order of 'Liquidation' and dismissed the application filed by the 'Resolution Professional'. Learned Counsel appearing for the Appellant submits that after the order of 'Liquidation', the Appellant Sanjay Kumar Ruia has been replaced and another person has been appointed as 'Liquidator'.

3. In view of the fact that the 'Resolution Process' could not succeed and it resulted in 'Liquidation', we allowed the erstwhile 'Resolution Professional' to file affidavit showing the correct amount of fees and the actual cost incurred by him with supported evidence. The Appellant has filed brief note

on the expenditure incurred, showing professional fee of the Company Secretary, retainer fee of Advocate, office rent etc. in support of the claim of cost. He has also filed a number of bills and receipt of appearances of other professionals, defending cost, cost of 32 appearances of Advocate made on behalf of 'Resolution Professional', travelling expenses for contesting the Appeal before this Appellate Tribunal, the cost for obtaining Demand Draft for filing before this Appellate Tribunal, printing expenses, Professional fees etc. It is informed that the bill etc. have been approved by the 'Committee of Creditors', as well as by the Adjudicating Authority (National Company Law Tribunal).

4. On perusal of record, we are satisfied with the brief note of the expenditure incurred by the Appellant-'Resolution Professional', but without expressing any opinion or determining the total amount, we remit the matter to the 'Liquidator', in view of the fact that liquidation proceeding has already been started. The details of claim as shown in the brief note of expenditure incurred and spent by 'Resolution Professional', which are stated to have been approved by the 'Committee of Creditors' and the Adjudicating Authority (National Company Law Tribunal), the Appellant will file them before the 'Liquidator' who on verification record it towards fees and cost of 'Resolution Professional'. If the amount based on bills and ledger have been approved by the 'Committee of Creditors', the 'Liquidator' cannot reject, the same being the 'resolution cost' and not claim of any 'creditor'. It is made clear that the Professional fee and cost incurred by the Appellant, if approved by the 'Committee of Creditors', it should be allowed as 'resolution cost'.

5. We make it clear that the fee of the 'Resolution Professional' and the cost incurred by him, being 'resolution cost', we have allowed the 'Liquidator' to determine the claim under Section 40 of the I&B Code, Appellant being not the 'creditor'. Once the amount is shown as 'fees' and 'resolution cost' the same to be paid in terms of Section 53 of the I&B Code.

6. The Appeal stands disposed of with the aforesaid observations.

[Justice S. J. Mukhopadhaya]  
Chairperson

[Kanthi Narahari]  
Member (Technical)