

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

Company Appeal (AT) (Insolvency) No. 142 of 2022

IN THE MATTER OF:

Jaybee Lamination Pvt. Ltd.

...Appellant

Versus

Trans-Fab Power India Pvt. Ltd.

...Respondent

Present:

For Appellant: Mr. Deepak Dhingra, Mr. Nishant Rewalia and Ms. Riya Sardana, Advocates.

For Respondent:

ORDER
(Virtual Mode)

15.02.2022: Heard learned counsel for the Appellant. This Appeal has been filed against the order dated 25.03.2021 passed by the Adjudicating Authority (National Company Law Tribunal), Mumbai Bench by which the Resolution Plan approved by the Committee of Creditors (CoC) has been approved by the Adjudicating Authority.

2. Learned Counsel for the Appellant submits that Appellant is an Operational Creditor who has been allocated only 12% of its dues in the Resolution Plan. He submits that order of the Adjudicating Authority itself indicated that Resolution Applicant has obtained a letter dated 26.11.2020 for an amount of Rs.28 Crores to be sanctioned as loan. Learned counsel for the Appellant submits that the Financial Creditors have been provided with payment of 55% of their dues whereas Workmen and Employees have been provided with 100% of their dues.

3. We have heard learned counsel for the Appellant and perused the record.

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4. It has been settled by Hon'ble Supreme Court in '*Committee of Creditors of Essar Steel India Limited vs. Satish Kumar Gupta & Ors.*' (2020) 8 SCC 531, that there cannot be equality in two different categories of claimants. The Appellant cannot claim that he should be given equivalent amount to one which has been given to the Financial Creditors. Both Operational Creditors and Financial Creditors fall in different categories and they can only claim equality with the same group or class. The law has been settled by the Hon'ble Supreme Court that no equal treatment can be claimed inbetween the different classes as far as payment is concerned. The judgment of '*Committee of Creditors of Essar Steel India Limited vs. Satish Kumar Gupta & Ors.*' (*supra*) has also been referred to by the Adjudicating Authority which has now settled the issue regarding claiming equality between different classes of creditors. We, thus, do not find any error in the judgment of the Adjudicating Authority warranting our interference in exercise of our appellate jurisdiction under Section 61 of the Code. Appeal is dismissed.

**[Justice Ashok Bhushan]
Chairperson**

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

Archana/nn