

National Company Law Appellate Tribunal, New Delhi
Principal Bench
Company Appeal (AT) (Ins) No. 569 of 2021

IN THE MATTER OF:

Abhijit Guhathakurta
Resolution Professional of Videocon
Group Companies
Vs.

...Appellant

...Respondent

Present:

For Appellant:

Mr. Abhinav Vasisht, Sr. Adv. with Mr. Sumesh Dhawan, Mr. Vaijaynt Paliwal, Mr. Saurav Panda, Mr. Charu Bansal, Zeeshan Khan, Ms. Prabh Simran Kaur, Advocates

ORDER
(Through Virtual Mode)

09.08.2021: Heard Ld. Sr. Counsel for the Appellant. He submits that Ld. Adjudicating Authority by the impugned order dated 08.06.2021 approved the Resolution Plan and in Paras 9 & 10 observed that:

9. The registered valuers have valued the assets of the 13 companies situated throughout the country and the 13 companies have varied business interests, products, segments viz oil and gas assets, Consumer Electronics and Home Appliances such as manufacturing Air Conditioners, Refrigerators, LED/ LCD TVs, Washing Machines, Air Coolers, providing Telecom Services, digital solutions, Real Estate, Electronic Retail Chain, Owner of Two Premium Brands etc. Surprisingly the Resolution Applicant also valued all the assets and liabilities of all the 13 companies and arrived at almost the same value of the registered valuers. As per the CIRP Regulations the Liquidation Value and Fair Market Value is kept as confidential and informed to the CoC members only at the time of finalising the resolution plan and even in the present case the resolution bids are opened in the 15th CoC meeting held on 02.09.2020 wherein Liquidation Value and Fair Market Value was informed to the members of CoC. Therefore, even if the confidentiality clause is in existence, in view of the facts and circumstances as discussed above a doubt arises upon the confidentiality clause being in real time use therefore, we request IBBI to examine this issue in depth so as to ensure the

confidentiality clause is followed unscrupulously, without any compromise in letter and spirit by all the concerned parties, entities connected in the CIRP. If not IBBI can frame appropriate regulations, safeguards there by the maximisation of value of the assets of the Corporate Debtor(s) would further increase which in turn will benefit all the stakeholders. Since IBC is a nascent code we feel “this type of input may be useful to the IBBI as well as to the Government to frame appropriate Regulations, Rules, etc.

10. It is also observed as a sample from the 10, 11, 12 CoC minutes, Members of CoC attended is 26, 26 & 28 respectively whereas the Applicant as Chair and the Applicant’s Authorised Representative from Deloitte Touche Tohmatsu India LLP were 22, 20 & 20 representatives respectively in addition to the Applicant’s Legal Counsel. Such a large number of Authorised Representative for the Applicant indicates either he is not fully prepared or monetary benefit (fees) to these Representatives. Therefore, we request IBBI to examine this issue as well and appropriate guidelines may be issued.

2. Ld. Sr. Counsel for the Appellant submits that without affording any opportunity of hearing. Ld. Adjudicating Authority has passed aforesaid remarks against the RP (Appellant). Therefore, being aggrieved the RP has filed this Appeal for expunging such remarks made against the RP.

3. We have gone through the aforesaid Paras 9 & 10 bare reading of these observations, it is apparent that Ld. Adjudicating Authority has requested/suggested to the IBBI and the Central Government to examine the following issues and if required may frame appropriate Regulations, Rules and or Guidelines.

“(i) The Liquidation value and market value be kept confidential and informed to the CoC Members only at the time of finalization the Resolution Plan.

(ii) May frame the guideline to fix the maximum number of authorized representative of the Applicant with a view to reduce the CIRP costs.”

4. We are of the view that Ld. Adjudicating Authority has not passed any remarks against the erstwhile Resolution Professional (Appellant). Therefore, we find no ground to admit this Appeal.

Thus, the Appeal is dismissed in limine, no order as to costs.

[Justice Jarat Kumar Jain]
Member (Judicial)

[Dr. Ashok Kumar Mishra]
Member (Technical)

Sc/md