

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 915 of 2020

IN THE MATTER OF:

Ramesh Kumar Suneja

....Appellant

Vs

Pawan Buildwell Pvt. Ltd. & Ors.

....Respondents

Present:

For Appellant: Mr. Piyush Singh, Mr. Aditya Parolia and Mr. Akshay Srivastava, Advocates.

For Respondents:

O R D E R
(Through Virtual Mode)

20.10.2020: This appeal is directed against order of liquidation in respect of the Corporate Debtor passed by the Adjudicating Authority (National Company Law Tribunal), New Delhi Bench (Court II). The issue raised is that the sole creditor constitutes the Committee of Creditors and the decision taken to liquidate the Corporate Debtor is vindictive and malafide.

2. It is trite law that the commercial wisdom of Committee of Creditors with regard to a business decision in approval of Resolution Plan or sending the Corporate Debtor into liquidation cannot be called in question and the same is not justiciable. It is not permissible to sit over the decision of Committee of Creditors when it decides to liquidate the Corporate Debtor, that too with 100% voting share. Commercial wisdom is the domain of Committee of Creditors and same is beyond the pale of challenge in so far as taking a business decision is concerned. In absence of any material irregularity in Corporate Insolvency Resolution Process, such decision cannot be interfered with.

3. Shri Piyush Singh, learned counsel representing the Appellant submits that Corporate Debtor is prepared to settle the claims of the Creditors. If that be the case, the Corporate Debtor can take resort to provisions of Section 230 of the Companies Act, 2013 even at the liquidation stage by floating Settlement Plan/ Scheme/ Compromise.

4. Keeping in view the submission made by learned counsel for the Appellant and the fact that the Corporate Debtor intends to settle with the Creditors, we dismiss the instant appeal with observation that the dismissal this appeal shall not preclude the Corporate Debtor from advancing proposal or floating a scheme/ settlement in terms of aforesaid provision. The appeal is accordingly dismissed.

**[Justice Bansi Lal Bhat]
Acting Chairperson**

**[Justice Jarat Kumar Jain]
Member (Judicial)**

**[Dr. Alok Srivastava]
Member (Technical)**

am/gc