

NATIONAL COMPANY LAW APPELLATE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Ins.) No. 412 of 2021

IN THE MATTER OF:

Delhi Baroda Road Carrier Pvt. Ltd.

Through its Resolution Professional,

Mr. Rajaraman Balachander.

D-97, Anand Niketan, New Delhi

...Appellant.

Versus

1. Committee of Creditors of Delhi

Baroda Carrier Pvt. Ltd.

Represented by CFM Asset Reconstruction Pvt. Ltd.

Registered Officer: A/3, 5TH Floor, Safal Profitaire,

Near Prahlad Nagar Garden, Ahmedabad,

Gujarat – 380015.

Corporate Office: 1st Floor, Wakefield House,

Sprott Road, Ballard Estate, Mumbai,

Maharashtra – 400038.

Through its Authorised Signatory, Mr. Anil Mittal

...Respondent 1

(Pro-Forma).

2. The Consortium of M/s. Delhi Gujarat

Road Carrier and Sushila Transport Pvt. Ltd.

Through its authorized signatory, Mr. Ashok Kumar Dhingra,

1/43, Shivaji Nagar, Gurugram, Haryana – 122001 and

839-A/3 Khalbat Pura, New Delhi – 110043

... Respondent 2

(Pro-Forma).

For Appellant: Mr. Arun Kathpalia, Sr. Advocate with

Ms. Shweta Dubey, Advocates.

For Respondent: Mr. Abhimanyu Redhu, RP

Mr. Gulshan Kr. Sachdev (Kotak M. Bank)

ORDER

(Virtual Mode)

16.06.2021

Heard Learned Counsel for the Appellant-Ms. Shweta Dubey. She submits that the Appellant is the Corporate Debtor through the Resolution Professional. It is stated that the Corporate Insolvency Resolution Process (CIRP in short) against the Corporate Debtor-Delhi Baroda Road

Carrier Pvt. Ltd. was initiated on 24th September, 2019 and after proceeding with the CIRP the Resolution Plan submitted by Respondent No. 2 (Pro forma Respondent) came to be accepted by the Respondent No. 1- Committee of Creditors (CoC in short) (Pro forma Respondent) by 91.56 % votes. The Learned Counsel submits that the Resolution Professional then filed I.A. No. 5462 of 2020 before the Adjudicating Authority (National Company Law Tribunal, Principal Bench, New Delhi). The I.A. No. 5462 of 2020 was filed on 10th December, 2020. The I.A. came up before the Adjudicating Authority on various dates but the same were not heard and then CoC-Respondent No. 1 filed I.A. No. 1118 of 2021 seeking urgent hearing and disposal of I.A. No. 5462 of 2020. The Learned Sr. Counsel-Mr. Arun Kathpalia adds that the Application moved by the CoC was disposed of on 3rd March, 2021 and the I.A. No. 5462 of 2020 was directed to be listed on 23rd March, 2021. The matter is still pending. It is stated that I.A. 5462 of 2020 came up before the Adjudicating Authority on 13th April, 2021 and the Adjudicating Authority simply directed "List on 11.05.2021". It is this order which has been impugned in the present Appeal.

2 Learned Sr. Counsel submits that the assets of the Corporate Debtor are Trucks and because of the matter still remaining pending regarding the acceptance of the Resolution Plan, there are serious difficulties which are being faced by the Corporate Debtor as the assets which are Trucks value of the same is seriously depleting. If the Trucks do not remain in operation, serious difficulties arise. It is stated that delay can put the Resolution Plan approved itself in difficulties.

3. Mr. Gulshan Kr. Sachdev, Advocate intervenes and states that he is appearing for Kotak Mahindra Bank who was part of CoC but had not voted

in favour of Resolution Plan. He states that he has filed objections before the Adjudicating Authority.

4. It appears to us that considering the averments made by the Learned Sr. Counsel for the Appellant, the I.A No. 5462 of 2020 pending before the Adjudicating Authority should be taken up and decided at the earliest.

5. Learned Sr. Counsel for the Appellant submits that the matter is now listed before the Adjudicating Authority on 06th July, 2021. We are conscious of the present Covid-19 situation but still so many efforts are being made by the Adjudicating Authorities even in such situation. We hope that the Adjudicating Authority is able to dispose the I.A. No. 5462 of 2021 at the earliest, may be within two weeks of 06th July, 2021.

6. With such observations, we dispose of the present Appeal.

[Justice A.I.S. Cheema]
The Officiating Chairperson

[Dr. Alok Srivastava]
Member (Technical)

Basant B./gc.