

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 477 of 2021

IN THE MATTER OF:

Deputy Commissioner, CGST Kalol, Gujrat

Department of Goods & Service Tax,
Central GST Division, 2nd Floor,
Janta super Market,
Kalol, Dist.: Gandhinagar,
Gujarat: 382721

...Appellant

Versus

M/s Gopala Polyplast Ltd.

485, Santej – Vadsar Road,
Santej, Tai, Kalol,
Dist. Gandhinagar
Gujarat: 382721

...Respondent

For Appellant: Mr. Sonu Bhatnagar, Sr. Advocate with Mr. Vaibhav Joshi, Ms. Mallika Joshi and Mr. Venus Mehrotra, Advocates.

For Respondent: Mr. Jaimin R Dave, Advocate.

ORDER
(Virtual Mode)

16.07.2021: This Appeal has been filed by the Appellant against impugned order dated 7th August, 2020 passed in I.A. No. 178 of 2020 in C.P. (IB) No. 08/NCLT/AHM/2019 passed by the Adjudicating Authority (National Company Law Tribunal), Ahmedabad Bench at Ahmedabad approving the Resolution Plan.

2. Heard Learned Counsel for the Appellant and Learned Counsel for the Respondent. Respondent is 'M/s Gopala Polyplast Limited' who has gone through

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Resolution Process and is now under the Successful Resolution Applicant. The appeal claims and Learned Counsel for the Appellant has argued that during the Corporate Insolvency Resolution Process (CIRP) of the Respondent the Appellant for 'CGST, Department of Goods and Service Tax, Kalol, Gandhinagar, Gujrat' has filed claim of the outstanding GST dues recoverable from the Corporate Debtor. The claim, as pointed out at page 47, is dated 30th May, 2019. The Learned Counsel submits that the claim was admitted to the extent of Rs.2,36,67,282/-. It is stated that the Resolution Plan approved by the Committee of Creditors has made provision of only Rs.1,18,336/- as full and final settlement of the dues of the Appellant, as can be seen from Annexure A-4 (Page 53).

3. The Learned Counsel for the Appellant submits that the amount approved for the Appellant – Operational Creditor is too insufficient considering the claim which was outstanding. The Learned Counsel, thus, submits that the Resolution Plan as approved was required to be interfered with.

4. Having Heard Learned Counsel for both sides. Perused judgment in the matter of '*Ghanashyam Mishra and Sons Private Limited vs. Edelweiss Asset Reconstruction Company Limited &. Others*', Civil Appeal No. 8129 of 2019 dated 13th April, 2021. In the said judgment the Hon'ble Supreme Court has dealt with issues in this context and Para 95 of the judgment reads as under:-

“95. In the result, we answer the questions framed by us as under:

(i) That once a resolution plan is duly approved by the Adjudicating Authority under subsection (1) of Section

31, the claims as provided in the resolution plan shall stand frozen and will be binding on the Corporate Debtor and its employees, members, creditors, including the Central Government, any State Government or any local authority, guarantors and other stakeholders. On the date of approval of resolution plan by the Adjudicating Authority, all such claims, which are not a part of resolution plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim, which is not part of the resolution plan;

(ii) 2019 amendment to Section 31 of the I&B Code is clarificatory and declaratory in nature and therefore will be effective from the date on which I&B Code has come into effect;

(iii) Consequently all the dues including the statutory dues owed to the Central Government, any State Government or any local authority, if not part of the resolution plan, shall stand extinguished and no proceedings in respect of such dues for the period prior to the date on which the Adjudicating Authority grants its approval under Section 31 could be continued.”

5. Considering the above judgment of the Hon'ble Supreme Court, the Resolution Plan approved is binding on the Central Government, State Government, any local authority, Guarantors and other stakeholders. Sufficiency or insufficiency of the amount is matter of Commercial Decision of the Committee of Creditors. It would not be appropriate on our part to interfere in the same. As such, the appeal does not make out any ground to admit the same.

6. For the given reasons, we decline to admit the Appeal. The Appeal is disposed of as not admitted. No costs.

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

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

Archana/gc.