

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

Company Appeal (AT) (Insolvency) No. 188 of 2023

IN THE MATTER OF:

Jammu Pigments Ltd.

...Appellant

Versus

Kuldeep Verma, Liquidator Of K.S. Oils Ltd. & Ors.

..Respondents

Present:

For Appellant: Mr. Kunal Godhwani, Mr. Bhanu Gupta, Advocates

For Respondent: Mr. Vivek Sibal, Sr. Advocate with Mr. Rahul Sharma, Advocates

ORDER

17.03.2023: Heard Learned Counsel for the Appellant.

2. This Appeal has been filed against the Order dated 06.01.2023 by which the Adjudicating Authority has directed the Liquidator to proceed with the liquidation of the Corporate Debtor.

3. The Appellant, Ex-Director of the Corporate Debtor has come up in this Appeal and submits that Appellant has submitted a revised scheme under Section 230 of the Companies Act which has not been considered. When the Appeal was taken for consideration, Learned Counsel for the Appellant submits that he shall make an effort to obtain consent of three-fourth of the Financial Creditors on 17.02.2023. Following order was passed on 17.02.2023:

“17.02.2023: This Appeal has been filed against order dated 06.01.2023 by which order the Adjudicating Authority has dismissed the application filed by the Appellant for consideration of revised scheme submitted by the Appellant under Section 230. The Adjudicating Authority has referred to the minutes of 10th Stakeholders Consultation Committee dated 23.02.2022 where in the minutes it has been noted that 74% of the total secured creditors are not in favour of proceeding with the scheme.

Learned counsel for the Appellant contends that the revised scheme was submitted by the Appellant subsequent to the meeting on 24.02.2022, hence, the same was not considered.

Learned counsel for the Liquidator submits that after the 10th meeting of the SCC, 11th meeting was held on 27.10.2022 where the Secured Financial Creditors again reiterated their decision that they are not inclined to accept the scheme.

Learned counsel for the Appellant submits that the Appellant is confident that the Financial Creditors shall approve the scheme with 75% votes, hence, one chance be given to the Appellant to obtain consent of the Financial Creditors.

List this Appeal after 10 days. It shall be open for the Appellant to obtain 75% consent of the Financial Creditors and submit alongwith an affidavit before the next date.

List this Appeal on 28.02.2023.”

4. Again, when the Appeal was taken on 28.02.2023, statement was made on behalf of Liquidator that majority having 81.87% vote share, lenders unanimously rejected revised scheme submitted by the Appellant. Appellant on the said date sought adjournment that he has met two lenders and taking steps and the appeal be adjourned. On his request, the Appeal was adjourned to 17th March, 2023.

5. When the case was taken today, Learned Counsel for the Appellant instead of informing the court whether he has obtained the consent from the Financial Creditor, has started arguing again on merits. When Appellant sought indulgence of court for a particular purpose, it is not open to them to go back from their statement.

6. The Appellant's scheme having not been approved with 75% votes of Creditors, no error has been committed by the Adjudicating Authority in passing the impugned order. The Appeal is dismissed.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

Basant/nn