

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 963-965 of 2024

IN THE MATTER OF:

Gaurav Katiyar,
RP of Earthcon Universal Infratech Pvt. Ltd. ...Appellant

Versus

Nisus Finance & Investment Managers LLP & Ors ...Respondents

Present:

For Appellant : Mr. Rishabh Jain and Mr. Gaurav Katiyar, Advocates

**For Respondent : Mr. Shikhil Suri, Sr. Advocate with Mr. Vidhi Kapoor
and Ms. Ishita Ahuja, Advocates for R-1 & 2.**

With

Company Appeal (AT) (Insolvency) No. 969 & 970 of 2024

IN THE MATTER OF:

**Consortium of DS Infraheights Pvt. Ltd.
& Anand Buildtech Pvt. Ltd. ...Appellant**

Versus

Nisus Finance & Investment Infratech Pvt. Ltd. & Ors. ...Respondents

Present:

**For Appellant : Mr. P. Nagesh, Sr. Advocate with Mr. Harshal Kumar,
Advocate**

**For Respondent : Mr. Rishabh Jain, Advocate and Mr. Gaurav Katiyar,
RP in person**

**Mr. Shikhil Suri, Sr. Advocate with Mr. Vidhi Kapoor
and Ms. Ishita Ahuja, Advocates for R-1 & 2.**

ORDER
(Hybrid Mode)

17.05.2024 These two appeals have been filed against the order dated 02.05.2024 passed by the Adjudicating Authority by which the application filed by Resolution Professional for approving the plan has been rejected on the ground that SRA is not eligible.

Learned Counsel for the SRA submits that SRA has filed an application to be impleaded in the application which were filed by Financial Creditor questioning the eligibility who was not permitted to be impleaded and it was the SRA who was the best person to explain the eligibility but was kept out of the proceeding.

Learned Counsel for the Resolution Professional also submits that Adjudicating Authority committed error in holding the SRA ineligible. Mr. Shikhil Suri, Learned Senior Counsel appearing for the Financial Creditor / Applicant submits that there were ample material on record to indicate that SRA was not eligible. Adjudicating Authority has rightly passed the impugned order.

Learned Counsel Sh. Arvind Verma appearing for the CoC also supports the submission of the Appellant that SRA eligibility was looked into and he was found ineligible.

Submissions need scrutiny. Issue Notice.

Let Reply be filed by the Respondent within three weeks. Rejoinder may be filed within two weeks thereafter.

List these Appeals on **06.08.2024**.

In the meantime, no fresh Form-G shall be issued.

Learned Counsel for the Respondent No.1 submitted that no interim order be granted. We are of the view that in facts of the present case, it is a fit case for the grant of the interim order. The prayer submitted by the Financial Creditor is rejected.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

[Arun Baroka]
Member (Technical)

pks/nn