

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

Company Appeal (AT) (Insolvency) No.1402 of 2022

IN THE MATTER OF:

Mohd Nazim Khan

...Appellant

Versus

Redhex IT Solutions Pvt. Ltd. & Anr.

...Respondents

Present:

For Appellant: Mohd Nazim Khan, Appellant in person with Mr. Shubham Agarwal, Advocate.

For Respondents:

O R D E R

25.11.2022: This Appeal has been filed against the order dated 18.10.2022 passed by the Adjudicating Authority rejecting I.A. No. 4132/2022. An application was filed by the Chairman on behalf of the Monitoring Committee praying for amendment in clause 6.10(II) of the Resolution Plan which has been rejected by the Adjudicating Authority holding that subsequent to approval of Resolution Plan, no amendment is permissible under law.

2. Appellant appearing in person has referred to Para 5.9 (i) of the Resolution Plan, which is as follows:

“i) Severability and Right to Modify

In the event it is determined that nay provisions of the Resolution Plan is unenforceable either on its face or as applied to any claims or

Cont'd.../

transaction and/or in the event any provision of the Resolution Plan becomes invalid for reasons other than by breach of any party, the new management of the IDYL may apply to the Adjudicating Authority for appropriate modification of such provisions of the Resolution Plan, to satisfaction of the Adjudicating Authority, and such invalidity and/or unenforceability of the provision of the Resolution Plan shall not render the whole Resolution Plan ineffective unless otherwise directed by the Adjudicating Authority by order.

In case any such modification is required in the Resolution Plan after the receipt of Adjudicating Authority approval, to comply with any laws currently in force or to apply for certain approvals as required under the Resolution Plan or for any other requirements, not jeopardizing the rights of the creditors under the current plan, the new management of the Solomon Holdings Private Limited would obtain necessary approval on any modification required to comply with the laws in force and to successfully implement the Plan from Adjudicating Authority, as may be required.

The Resolution Applicant reserves and retains the right to modify the proposed Resolution Plan on occurrence of any of the following events:

- ❖ *In case any additional information is obtained by the Resolution Professional and provided to the Resolution Applicant Post submission of this Plan;*
- ❖ *In case of any information provided by the Resolution Professional is modified, revised or amended post submission of this Plan;*
- ❖ *In case the claim amounts admitted by the Resolution Professional towards any class of creditor is communicated or modified or revised;*
- ❖ *In case the amount proposed in this Plan for settling the dues to the Financial and Other creditors is revised based on discussions between the members of the CoC and the Resolution Applicant.”*

3. Appellant submits the in view of the aforesaid, Appellant has requested for modification of the plan.

4. After perusal of Para 5.9(i), we are of the view that in the facts of the present case, it is not the case that any clause of the plan is invalid or unenforceable, hence plan is not required to be amended.

5. The Appellant submits that there are practical difficulties in implementing the plan.

6. In view of the above, it is open for the Appellant to make appropriate application before the Adjudicating Authority for issuing directions but the prayer for amendment of the plan has rightly been rejected by the Adjudicating Authority.

7. With liberty aforesaid, we dismiss the Appeal. The cost imposed on the Appellant in the impugned order is deleted.

[Justice Ashok Bhushan]
Chairperson

[Dr. Alok Srivastava]
Member (Technical)

[Barun Mitra]
Member (Technical)

Archana/nn