

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 276 of 2019

IN THE MATTER OF:

Aassaan Global Trade

...Appellant

Versus

Mr. Vasudevn, Resolution Professional & Ors.

...Respondents

Present

For Appellant:

**Mr. Abhijeet Sinha and Mr. A. Muraleedharun
and Mr. Shantanu Singh, Advocates.**

For Respondents:

**Mr. Sumant Batra, Ms. Niharika Sharma, Mr. D.
Sreenivasa and Mr. K. Moorthy, Advocates for
Resolution Professional.**

**Mr. Bijoy Kumar Pradhan, Advocate for Respondent
No.12.**

**Mr. Yashraj Singh Deora and Ms. Sonal Mashankar,
Advocates for R-4.**

**Mr. E. Om Prakash, Senior Advocate with
Ms. Madhusmita Bora, Advocates for Respondent
No.7.**

**Mr. Prithu Garg and Mr. Siddharth Mehta, Advocates
for Respondent Nos.6, 8 and 10.**

With

Company Appeal (AT) (Insolvency) No. 557 of 2019

IN THE MATTER OF:

M. Mohamed Fahrudeen

...Appellant

Versus

Vasudevan RP, Tiffins Barytes Asbestos
& paints Ltd. & Ors.

...Respondents

Present

For Appellant:

For Respondents:

**Mr. D. Sreenivasan and Mr. K. Moorthy, Advocates
for Respondent Professional**

Mr. Bijoy Kumar Pradhan, Advocate for Respondent No.2.

Mr. E. Omprakash, Senior Advocate with Ms. Madhusmita Bora, Advocates.

With
Company Appeal (AT) (Insolvency) No. 653 of 2019

IN THE MATTER OF:

Dr. Ravi Shankar Vedam

...Appellant

Versus

Tiffins Barytes Asbestos and Paints Ltd. & Anr.

...Respondents

Present

For Appellant: Mr. Krishnendu Datta, Ms. Neha Nagpal and Mr. Vishwendra Tomar, Advocates

For Respondents: Mr. Rana Mukherjee, Senior Advocate with Ms. Kanika Sharma, Advocates.

Mr. Sumant Batra, Mr. D. Sreenivasan and Mr. K. Moorthy, Advocates for Resolution Professional.

With
Company Appeal (AT) (Insolvency) No. 716 of 2019

IN THE MATTER OF:

Aassaan Global Trade

...Appellant

Versus

Tiffins Barytes Asbestos and Paints Ltd.
& Anr.

...Respondents

Present

For Appellant: Mr. Abhijeet Sinha, Mr. Shantanu Singh and Ms. Yashasvini Venkatadri, Advocates

For Respondents: Mr. Rana Mukherjee, Senior Advocate with Ms. Daisy Hannah and Ms. Kanika Sharma, Advocates.

Mr. Sumant Batra and Ms. Niharika Sharma, Advocates for Resolution Professional.

Company Appeal (AT) (Insolvency) No. 803 of 2019

IN THE MATTER OF:

Ravi Shankar Vedam.

...Appellant

Versus

Udhyaman Investments Pvt. Ltd. & Ors.

...Respondents

Present

For Appellant: **Mr. Krishnendu Datta, Mr. Ravi Raghunath, Ms. Madhushruti Neela Kantan, and Ms. Aakash Lodha, Advocates**

For Respondents: **Mr. Yashraj Singh Deora and Ms. Sonal Mashankar, Advocates for R-4.**

Mr. E. Om Prakash, Senior Advocate with Ms. Madhusmita Bora, Advocates

Mr. D. Sreenivasan and Mr. K. Moorthy, Advocates for Resolution Professional.

Mr. Rana Mukherjee, Senior Advocate with Mr. G. Ananda Selvam, Advocates for Respondent No.14.

Mr. Prithu Garg and Mr. Siddharth Mehta, Advocates for Respondent Nos.4-8.

O R D E R

03.01.2020 The brief facts of the Appeal(s) are as follows: -

Company Appeal (AT) (Insolvency) No. 276 of 2019

- The ‘Resolution Plan’ approved by order dated 12th June, 2019 is under challenge.
- Order dated 19th February, 2019 is also under challenge.
- Liquidation value of the Assets of the ‘Corporate Debtor is Rs.69.91 crores (according to the Respondents); and fair value is

Rs.82 crores (according to the Respondents) excluding the mines of Karnataka.

- Mining lease has not been claimed in the 'Resolution Plan'.
- According to the Appellant(s), Liquidation value is Rs.253.98 crores including the mining lease.
- Total offer by 'Successful Resolution Applicant' is Rs.86 crores.
- Rs.5 crores is provided towards working capital.
- According to 'Plan' the distribution is: -
 - (i) Secured Financial Creditors - 100%.
 - (ii) Unsecured Financial Creditors – 25% of their claim (though liquidation value is zero).
 - (iii) Operational Creditors – 15% (even though the liquidation value is zero).
 - (iv) Aassaan Global Trade (Appellant – Unsecured Financial Creditor) has been provided 2.8% of admitted claimed amount.
 - (v) According to Aassaan Global Trade (Appellant – Unsecured Financial Creditor) the claim is not properly decided by 'Resolution Professional', against which an application under Section 60(5) was filed and rejected by order dated 12th June, 2019.

Company Appeal (AT) (Insolvency) No. 716 of 2019

- Aassaan Global Trade (Appellant - Financial Creditor) Appeal is only against other order dated 19th February, 2019, otherwise, same issues are raised as in the Company Appeal (AT) (Insolvency) No. 276 of 2019.

Company Appeal (AT) (Insolvency) No. 557 of 2019

- M. Mohamed Fahruddeen (Appellant – an employee) - Nobody appears.

Company Appeal (AT) (Insolvency) No. 653 of 2019

- Dr. Ravi Shankar Vedam (Appellant – Shareholder) – provided Nil amount.
- Initiation of ‘Corporate Insolvency Resolution Process’ was fraudulent (called by Section 65). The question will be, whether the Appellant – Dr. Ravi Shankar Vedam, Shareholder can raise issue of Section 65, once such issue was not raised when notice was given to ‘Corporate Debtor’ and also not raised the issue before the Appellate Tribunal thereafter?
- The Appellant is to answer as to whether Promoters intend to satisfy all the Creditors, if it is set-aside on the ground of Section 65?
- The Appellant, Shareholder has never filed any application under sub-section 5 of Section 60 raising any issue including issue relating to Section 65 before the Adjudicating Authority (National Company Law Tribunal).

Company Appeal (AT) (Insolvency) No. 803 of 2019

- Appellant in 2nd Appeal has also challenged order dated 9th July, 2019, rejecting the prayer for Forensic Audit.
- Corporate Insolvency Resolution Process (CIRP) started on 12th March, 2018 (date of admission).
- 270 days completed on 7th March, 2019 including period of exclusion.

- 'Resolution Plan' was approved on 27th February, 2019 by the Committee of Creditors.
- 'Resolution Plan' submitted by 'Resolution Professional' on 4th March, 2019, i.e. just prior to completion of 270 days after exclusion of the period and just before the final decision of the 'Committee of Creditors, which was rejected.

On the next date, the parties are to address on the issue strictly in terms of Section 61(3) of the I&B code and violation of any other provisions while rejecting one or other application under Section 60(5).

Post these Appeal(s) 'for admission (after notice)' on **22nd January, 2020** at 02:00 PM on the top of the list.

In the meantime, parties are allowed to file short written submissions not more than three pages on the issues as raised.

[Justice S.J. Mukhopadhaya]

Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

Ash/GC