NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Ins) No. 1873 of 2025

IN THE MATTER OF:

Hasmukhbhai Chhaganbhai Patel ...**Appellants**

Versus

Vinod Tarachand Agarwal,
RP of Kingston Paptech Pvt. Ltd. & Anr. ...**Respondents**

Present:

For Appellant	:	**Mr. Deepin Deepak Sahni, Advocate.**
For Respondents	:	**Mr. Karan Valecha, Advocate for R1.**
		Mr. Moonal Davawala, Advocate for CoC/ R2.
		Ms. Honey Satpal, Advocate for SRA.

O R D E R
(Hybrid Mode)

28.11.2025: Heard counsel for the appellant.

2. This appeal has been filed against the order passed by the Adjudicating Authority dated 31.10.2025 by which IA No. 1093/NCLT/Ahm/2025 filed by the appellant has been rejected. The appellant was unsuccessful resolution applicant who has filed an IA praying for rejection of the resolution plan which application is rejected.

3. Ld. Counsel for the appellant challenging the order submits that the maximisation of the assets of the CD is one of the objective of the IBC and the commercial wisdom of the Committee of Creditors cannot override the objects of the IBC. He submits that the appellant has offered higher amount hence the plan of the appellant ought to have been accepted.

4. It is true that approval of resolution plan is in commercial wisdom of the CoC and the court interference in the approved plan is permissible only when plan is non-compliance of Section 30(2). The present is the case where appellant's case is that it has offered the higher amount and the CoC has approved the amount which had offered lesser financial amount.

5. We have considered the submissions of counsel for the parties and perused the record.

6. The Adjudicating Authority has considered the submission of the appellant raised in the application and has returned a finding that although the financial offer of the appellant was Rs.10.66 Crores but in the Evaluation matrix it has scored 63.35/100 whereas the SRA has scored 73.36/100 and the upfront payment was offered of the SRA within 30 days. The said finding has been returned in para 7.6 of the impugned order which is as follows:-

> *"7.6. The legal position regarding non-justiciability of the CoC's commercial wisdom is well settled. The Hon'ble Supreme Court in* ***K. Sashidhar v. Indian Overseas Bank & Ors. (2019) 12 SCC 150, Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta (2019) 16 SCC 479,*** *and the Hon'ble NCLAT in* ***Binani Industries Ltd. v. Bank of Baroda & Anr. (Company Appeal (AT) (Insolvency) No. 82 of 2018] and Pratap Technocrats (P) Ltd. v. Monitoring Committee of Reliance Infratel Ltd. [Company Appeal (AT) (Insolvency) No. 914 of 2021]*** *have consistently held that the CoC's decision to approve or reject a plan is final, and neither the RP nor the Adjudicating Authority can substitute their judgment for the commercial wisdom of the CoC.*
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> *The Tribunal notes that five resolution plans were placed before the CoC for consideration. While the Applicant's plan carried the highest financial offer of Rs. 10.66 Crores, it was ranked H4 under the Evaluation Matrix with a score of 63.35/100, on account of lower upfront payment, conditionalities. and other qualitative factors as available in the plan evaluation chart (determining the final score of*

each resolution applicant) as reproduced in paragraph 4.6 above. The plan, which has been approved by the CoC, under IA (Plan) No. 16 of 2025, offered full upfront payment within 30 days and was backed by stronger net worth credentials, achieving a score of 73.36/100 and ranked H1 under the EM. The Applicant has been given lesser score on various parameters rather than merely the highest financial offer."

There cannot be any dispute to the objective of the IBC that is maximisation of the assets but as far as the comparative analysis and business decision with regard to approval of the plan it is the CoC decision and mere fact that financial offer given by the appellant was higher cannot be reason to reject a resolution plan which has lessor final offer but had scored higher in evaluation matrix, these are the issues which are in the commercial domain of the CoC and we do not find any error in the order of the Adjudicating Authority in rejecting the application. Appeal is dismissed accordingly.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

harleen/RR