

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI**  
**Company Appeal (AT) (Insolvency) No. 1053 of 2020**

**In the matter of:**

**Newogrowth Credit Pvt. Ltd.**

**....Appellant**

**Vs.**

**Resolution Professional, Bhaskar Marine Services  
Pvt. Ltd. & Ors.**

**....Respondents**

**Present:**

**Appellant: Mr. Manish Gupta, Ms. Srishti Juneja, Mr. Sampurna,  
Advocates.**

**Respondents: Mr. Nipun Gautam, Mr. Kanishk Khetan, Advocates for  
R1. Mr. Sudershan Gupta, RP**

**ORDER**

**(Through Virtual Mode)**

**10.12.2020:** This appeal has been preferred by 'Newogrowth Credit Pvt. Ltd.', a member of the Committee of Creditors assailing the impugned order dated 12<sup>th</sup> October, 2020 passed by the Adjudicating Authority (National Company Law Tribunal), New Delhi, Special Bench, Court VI in IA No. 2357 of 2020 in CP (IB) NO. 2832/ND/2019 by virtue whereof the Appellant has been directed to bear 27% of the Corporate Insolvency Resolution Process (CIRP) costs as per its share. The order is assailed on the ground that the Appellant had withdrawn its claim and such withdrawal had been permitted by the Resolution Professional. Reference in this regard is made to Annexure A7 at page

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78 of the appeal paper book. However, Mr. Nipun Gautam, Advocate representing the Resolution Professional submits that the decision of the Resolution Professional allowing withdrawal of claim was subsequently set aside by the Adjudicating Authority which directed inclusion of the Appellant in the Committee of Creditors and the Appellant did actually and factually participate in the meeting of the Committee of Creditors.

2. After hearing learned counsel for the parties, we find that the direction in terms of the impugned order slapping Appellant with liability to bear 27% of the CIRP cost is backed by the documentary evidence besides being in consonance with and proportionate to the share of the Appellant. Therefore, the contention of same being arbitrary or unreasonable cannot be entertained. However, it appears that the computation of the cost has not taken into consideration the period of exclusion of Appellant from the CIRP viz. the period from 5<sup>th</sup> February, 2020 (when its claim was allowed to be withdrawn) to 10<sup>th</sup> July, 2020 (when it was a part of the Committee of Creditors). The CIRP costs for such period have to be excluded as the Appellant cannot be held in any manner liable to bear the same. After such exclusion, learned counsel at the Bar agreed that the amount comes to Rs.1,16,000/- which is due and payable.

3. We accordingly modify the impugned order to the extent indicated hereinabove. The Appellant shall pay the amount of Rs.1,16,000/- as share of

its CIRP costs within 10 days. The appeal is accordingly disposed off.

A copy of this order be communicated to the Adjudicating Authority for information.

**[Justice Bansi Lal Bhat]  
Acting Chairperson**

**[Dr. Ashok Kumar Mishra]  
Member (Technical)**

**[Shreesha Merla]  
Member (Technical)**

*AR/g*