

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT)(Insolvency) No. 632 of 2023

IN THE MATTER OF:

K.P. Manish Global Ingredients Pvt. Ltd. ...Appellant

Versus

Genrx Pharmaceuticals Pvt. Ltd. & Ors. ...Respondents

With

Company Appeal (AT)(Insolvency) No. 479 of 2023

IN THE MATTER OF:

K.P. Manish Global Ingredients Pvt. Ltd. ...Appellant

Versus

Genrx Pharmaceuticals Pvt. Ltd. & Ors. ...Respondents

Present:

For Appellant : Mr. Anuj Tiwari, Mr. Swankit Nanda, Mr. Saurabh K. Mishra and Mr. Nikhil Anand, Advocates

For Respondents : Mr. Santhosh Krishnan, Ms. Deepshikha Sansanwal and Mr. Raghav Anand, Advocates for Respondent/ Liquidator (R-2)

Mr. Suresh Dobhal, Mr. Nirmal Goenka and Mr. Vijay Deora, Advocates for R-3 (CoC)

ORDER

23.05.2023: Heard learned Counsel for the parties.

2. These two appeals have been filed by the same Appellant challenging the orders passed by NCLT, Mumbai, Court-IV.

3. Company Appeal (AT)(Insolvency) No. 479 of 2023 has been filed challenging the order dated 28.02.2023 by which I.A. No. 590 of 2023 filed by the Appellant has been dismissed. By I.A. No. 590 of 2023, the Appellant has prayed for a direction to Resolution Professional to submit revised Resolution

Plan submitted by the Appellant and place it before the CoC for further discussion and decision.

4. Company Appeal (AT)(Insolvency) No. 632 of 2023 has been filed by the Appellant challenging the order dated 28.04.2023 by which order Adjudicating Authority has allowed the Application filed by Resolution Professional for liquidation. The Appellant is one of the Resolution Applicants who has submitted Resolution Plan in the CIRP. By I.A. No. 590 of 2023, the Appellant has prayed for a direction to Resolution Professional to take revised Plan of the Appellant and further place it before the CoC which Application came to be dismissed on 28.04.2023 observing that the Application is nothing but delay-dale tactics on the part of Resolution Professional.

5. Leaned Counsel for the Appellant, in support of the Appellant, has submitted that the Appellant is still ready to submit a revised plan with enhanced financial offer provided CoC is willing to permit.

6. Learned Counsel for the Respondent submits that the Resolution Plan of the Appellant was considered thrice by CoC. It is submitted that in I.A. No. 590/2023, an order was passed on 17.02.2023 by Adjudicating Authority permitting to give revised Financial Offer. The CoC considered the revised Financial Offer of the Appellant on 21.12.2023, 24.02.2023 and 27.02.2023. However, CoC did not accept the offer given by the Appellant nor it approved the Plan of the Appellant.

7. We have considered the submissions of the Counsel and perused the records. Resolution Plan given by the Appellant was duly considered by CoC. Even after filing of I.A. No. 590 of 2023, the Adjudicating Authority directed for

consideration of the Revised Financial Offer of the Appellant which was considered by CoC in its different meetings, as submitted by the learned Counsel for the Respondent, but CoC did not accept the Plan submitted by the Appellant.

8. We do not find any error in the Order dated 28.02.2023 rejecting I.A. No. 590 of 2023. In fact, the prayers made in I.A. No. 590 of 2023 were entertained by Adjudicating Authority directing the CoC to consider the Revised Plan which was actually considered.

9. The subsequent order passed by Adjudicating Authority directing for liquidation is consequential order since no Resolution Plan was approved in CIRP.

We are thus of the view that there is no merit in any of the Appeals. Both the Appeals are dismissed.

[Justice Ashok Bhushan]
Chairperson

[Mr. Barun Mitra]
Member (Technical)

akc/nn