

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL,  
PRINCIPAL BENCH, NEW DELHI  
Company Appeal (AT) (Insolvency) No. 142 of 2021**

**In the matter of:**

**Mr. Gulabchand Jain**

**....Appellant**

**Vs.**

**Mr. Ramchandra D. Choudhary, Resolution  
Professional of Vijay Timber Industries Pvt. Ltd.**

**....Respondent**

**Present:**

**Appellant: Mr. Sunil Bhavsar, Advocate.**

**Respondent: Mr. Atul Sharma, Advocate.**

**ORDER**

**(Through Virtual Mode)**

**02.03.2021:** The only issue raised in this appeal preferred against order dated 31<sup>st</sup> December, 2020 passed by the Adjudicating Authority (National Company Law Tribunal), Ahmedabad Bench, Court-2, sending the Corporate Debtor into liquidation on the recommendation of the Committee of Creditors (COC) comprising of the sole lender Punjab National Bank is that the Rules of Natural Justice have not been followed by the COC.

2. After hearing Mr. Sunil Bhavsar, learned counsel for the Appellant, we find that the Suspended Management being the Promoter was all along represented in the COC meetings and never raised any objection as emanates from para 1 of the impugned order. This being a matter of record, the Appellant- Promoter's disputing the factum of his participation in the COC

Contd/-.....

meetings cannot be entertained. That apart, under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 read together with *explanation* inserted by Act 26 of 2019 enforced w.e.f. 16<sup>th</sup> August, 2019, the COC is empowered to take a decision in regard to liquidation of the Corporate Debtor even after an application has been filed by the Resolution Professional placing the Resolution Plan approved by the COC before the Adjudicating Authority for approval. Of course, the withdrawal of the Resolution Plan can be done before its approval by the Adjudicating Authority. This implies that even after approval of the Resolution Plan by the COC and laying it before the Adjudicating Authority, the COC can change its mind and pass a Resolution liquidating the Corporate Debtor subject to only exception that such course cannot be adopted after its confirmation i.e. after approval of the Resolution Plan by the Adjudicating Authority.

We find no merit in this appeal. The same is dismissed.

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

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

**AR/g**