

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI
Company Appeal (AT) (Insolvency) No. 1054 of 2020

In the matter of:

Seroco Lighting Industries Pvt. Ltd.

....Appellant

Vs.

Ravi Kapoor, RP for Arya Filaments Pvt. Ltd. & Ors.

....Respondents

Present:

Appellant: Mr. Tirth Nayak, Mr. Abhijeet Swaroop, Advocates.

ORDER

(Through Virtual Mode)

10.12.2020: This appeal is directed against dismissal of I.A No. 96 of 2020 at the hands of the Adjudicating Authority (National Company Law Tribunal), Indore Bench at Ahmedabad by impugned order dated 23rd October, 2020 by virtue whereof the Appellant's prayer for revision of the approved Resolution Plan has been turned down. After noticing that the Corporate Debtor is an MSME and the Appellant being aware of the financial condition of the Corporate Debtor, it submitted the sole Resolution Plan that came to be approved by the Adjudicating Authority. The Adjudicating Authority observed that the contention of the Appellant that it had no knowledge of the financial condition of the Corporate Debtor cannot be entertained.

2. After hearing learned counsel for the Appellant and having regard to the Judgments rendered by this Appellate Tribunal holding that the Successful

Contd/-.....

Resolution Applicant cannot be permitted to withdraw the approved Resolution Plan coupled with the fact that the Appellant in the instant case being the sole Resolution Applicant in the Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor which has been classified as an MSME and admittedly having knowledge of the financial health of the Corporate Debtor as a promoter or a connected person cannot be permitted to seek revision of the approved Resolution Plan on that ground which would not be a material irregularity within the ambit of Section 61(3) of the Insolvency and Bankruptcy Code, 2016. We are of the considered opinion that there is no merit in this appeal and the same is liable to be dismissed.

3. We accordingly dismiss the appeal. However, taking into consideration the fact that the Corporate Debtor is an MSME and there is economic slowdown globally in the wake of outbreak of COVID-19 Pandemic, we deem it appropriate to waive off the costs imposed by the Adjudicating Authority. The impugned order to the extent of imposition of costs is accordingly set aside.

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

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

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

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

AR/g