

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Company Appeal (AT) (Ins.) No. 404 of 2022

IN THE MATTER OF:

**Jitesh Gupta,
Ex-Resolution Professional Homestead Infrastructure
Development Pvt. Ltd.**

...Appellant

Versus

Lokendra Kumar Gupta & Ors.

...Respondents

Present:

For Appellant: Mr. Neeraj Sharma, Mr. Saurabh Kalia, Advocates

For Respondent: Advocate Amrita Singh, for R-2.
Mr. Pulkit Choudhary, Advocate for R-3.
Mr. Vishal Ranjan, Advocate for FC.

**O R D E R
(Virtual Mode)**

23.05.2022: Heard Learned Counsel for the Appellant as well as Learned Counsel appearing for the Financial Creditor who has sought intervention in the matter and Respondent No. 3.

2. This Appeal has been filed by the Ex-Resolution Professional challenging the Order dated 08th December, 2021 passed by the Adjudicating Authority (National Company Law Tribunal, New Delhi Bench, Court-II). By which Order, the Adjudicating Authority has directed for liquidation since no Resolution Plan could be received and has also appointed Liquidator, Mr. Tejas Patel.

3. Learned Counsel for the Appellant submits that Appellant is aggrieved by the observations made against the Appellant in paragraphs 17 to 19 of the Impugned Order and further although the Appellant was proposed to be

liquidator but the Adjudicating Authority has appointed Mr. Tejas Patel as Liquidator to proceed further in the matter.

4. We have considered the submissions of Learned Counsel for the Appellant and perused the record.

5. In so far as the directions of the Adjudicating Authority not to appoint the Appellant as Liquidator and appointed Mr. Tejas Patel as Liquidator, we see no reason to interfere in the Impugned Order.

6. Now, we come to the observations made against the Appellant in Paragraph 17 to 19. The observations are that there was a gap of 110 days between the last date of submission of Resolution Plan i.e. 27.03.2020 and the date of final email sent by the Resolution Professional to the CoC on 15th July, 2020. The reasons for non-convening of CoC meeting during the period of 110 days to either consider extension of the deadline for submission of the Resolution Plan or to consider the alternative recourse of liquidation, are not clear, is of the observations by the Adjudicating Authority.

7. It is well known that the period from 27.03.2020 to 15.07.2020 was a period during which the entire country was suffering from Covid-19 Pandemic. Looking to the peculiar circumstances at the relevant time, we see that no adverse inference ought to have been drawn against the Resolution Professional due to only of that reason. We thus are of the view that observations in Paragraph 19 need to be treated as no adverse to the Resolution Professional however we make it clear that in so far as the direction in Paragraph 20, regarding enquiry by the Board, we are not interfering in the said direction and it shall be open for the Board to consider and conduct the

enquiry and take appropriate decision in accordance with law as deem fit by the Board.

With these observations, the Appeal is disposed of.

[Justice Ashok Bhushan]
Chairperson

[Ms. Shreesha Merla]
Member (Technical)

Basant/nn