

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

Company Appeal (AT) (Insolvency) No. 653 of 2022

IN THE MATTER OF:

Noble Marine Metals Co WLL

...Appellants

Versus

Kotak Mahindra Bank Ltd. & Ors.

...Respondent

Present:

For Appellant: Mr. Gaurav Mitra, Mr. Avinash Bhati, Advocates

For Respondent: Mr. Bishwajit Dubey, Mr. Uday Khare, Srideepa Bhattacharyya, Yash Jain, Advocates for R-2

**ORDER
(Virtual Mode)**

03.06.2022: Learned Counsel for the Appellant submits that the Resolution Plan submitted by the Applicant was approved by the Committee of Creditors ('CoC' in short) on 04th June, 2019 and thereafter the Application for approval of the plan was filed which is pending consideration for more than two years. It is submitted that by the Impugned Order dated 30th March, 2022, the Plan has been sent back to the 'CoC' for reconsideration on the submissions made on behalf of the Financial Creditors.

2. It is submitted that Financial Creditors now are not comfortable with the clause in the plan by which Personal Guarantor were granted exemption from proceeding against them. He submits that issue is fully covered by the Judgement of Hon'ble Supreme Court in the matter of '**Ebix Singapore Pte Ltd.**

Contd..

vs. Committee Of Creditors Of Educomp', (2022) 2 SCC 401 paragraph 203 and 204.

3. Learned Counsel appearing for the Respondent-Mr. Dubey submits that in fact the Order impugned is a consent order. Appellant-Successful Resolution Application has also consented to the Order which submission is disputed by the Learned Counsel for the Appellant and Learned Counsel for the Appellant has referred to an Order dated 23rd March, 2022 where specifically it was recorded that the Resolution Applicant is not willing to forego the terms namely clause 4b and sub clause 4(iii) of the Resolution Plan. Submission needs scrutiny.

4. Issue notice to the Respondents through Speed-Post as well as Email. Requisites along with process fee, if not filed, be filed within two days.

5. Respondents to file their Reply-Affidavits within three weeks. Rejoinder, if any, may be filed within two weeks, thereafter.

6. List this Appeal on **26th July, 2022**. In the meantime, further proceeding before the CoC in pursuance of the Impugned Order dated 30th March, 2022 shall remain stayed.

[Justice Ashok Bhushan]
Chairperson

[Mr. Naresh Salecha]
Member (Technical)

Basant/nn