

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
Company Appeal (AT) (Insolvency) No. 227 of 2022

In the matter of:

Finquest Financial Solutions Pvt. Ltd.

....Appellant

Vs.

Anuj Jain

Erstwhile RP of Ballarpur Industries Ltd. & Ors.

....Respondents

Present

For Appellant: Mr. Ramji Srinivasan, Sr. Advocate with Mr. N. P. S. Chawla, Mr. Surekh Kant Buxy, Ms. Kinjal Goyal and Mr. Sujoy Datta, Advocates.

For Respondent: Mr. Ankur Mittal, Ms. Aishwarya Pandey, Ms. Itisha Gulati and Ms. Meera Murali, Advocates for R-2.
Mr. Ramakant Rai, Mr. Yashish Chandra and Mr. Somesh Srivastava, Advocates for R-3.
Ms. Shreya Sircar and Ms. Sanjukta Roy, Advocates for Kotak Bank.

ORDER
(Virtual Mode)

19.04.2022: An Affidavit on behalf of Respondent No. 1 is filed today, which is taken on record.

2. This Appeal has been filed against the Order dated 25.01.2022, by which Order, while allowing the I.A. No. 2510 of 2021, 'Corporate Debtor' was sent to liquidation. The Appeal was heard on 07.03.2022 on which day following Orders was passed by this Tribunal:

Heard Shri Ramji Srinivasan learned counsel for the Appellant, learned counsel appearing for the CoC, learned Resolution Professional as well as learned counsel for the Kotak Mahindra Bank. This Appeal has been filed against order dated 25.01.2022 by which the Adjudicating Authority passed following order in I.A. No. 2510/2021:

"I.A. 2510/2021 The above application is filed for Liquidation. The above Application is allowed.

Detailed order will follow. List the other pending applications on 01.03.2022”

2. It is submitted by learned counsel for the Appellant that order which was contemplated on 25.01.2022 regarding liquidation could only be uploaded on 22.02.2022. On this learned counsel for the Respondent have no objection and everyone agreed to the submission that order was uploaded only on 22.02.2022.

3. It is submitted by learned counsel for the Appellant that in the meantime, on 07.02.2022, Revised Resolution Plan was submitted by the Appellant which was considered by the CoC in its meeting dated 11.02.2022, where the CoC directed the Resolution Professional to file application before the Adjudicating Authority seeking reconsideration of the Resolution Plan. In pursuance to which I.A. No. 402/2022 was filed by the Resolution Professional for reconsideration of the Resolution Plan. It is submitted by learned counsel for the Appellant that on 21.02.2022 when applications were listed, Court was requested not to pass any order of liquidation since the application seeking reconsideration of Revised Resolution Plan was pending.

4. Learned counsel for the Kotak Mahindra Bank submits that they have objection to CoC reconsidering the Revised Plan since timeline has also expired and there is no occasion to reconsider the Revised Plan at this stage. Learned counsel for the Appellant submits that Kotak Mahindra Bank is having only 4.62% of voting share in the CoC, who has also raised objections in the CoC meeting dated 11.02.2022 and despite objections of Kotak Mahindra Bank, CoC authorised the Resolution Professional for filing an application for reconsideration of the Revised Plan.

5. In fact of the present case, we are of the view that ends of justice be served and order dated 25.01.2022 by which the learned Adjudicating Authority has observed that liquidation is allowed be stayed. The order of liquidation is thus stayed.

6. Learned counsel for the Appellant submits that I.A. No.402 has already been dismissed on 21.02.2022 on the ground that order of liquidation having already passed, the application has become infructuous.

7. Considering above facts, we are of the view that ends of justice be served in issuing direction to the CoC to reconsider the Revised Resolution Plan dated 07.02.2022 within a period of six weeks from today. It goes without saying that Resolution Professional shall convene meeting of CoC for reconsideration of the Revised Plan forthwith. List the Appeal on 19.04.2022 on which date decision of CoC be brought on the record, if any.

3. Subsequent to the Order of this Tribunal dated 07.03.2022 in the Affidavit which has been filed today, it has been pleaded that on 14.04.2022, the CoC after considering the feasibility and viability of the revised plan approved it with 88% majority. In view of the aforesaid development, we are of the view that Order dated 25.01.2022, of the Adjudicating Authority allowing the Application for Liquidation deserves to be set aside and is hereby set aside.
4. The RP is at liberty to file an Application before the Adjudicating Authority for approval of the RP and take all other consequential steps.
5. The Appeal is disposed of accordingly.
6. In view of the aforesaid, we extend CIRP period till 30th April, 2022.

[Justice Ashok Bhushan]
Chairperson

[Ms. Shreesha Merla]
Member (Technical)

himanshu/nn