

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT)(Insolvency) No. 03 of 2023

IN THE MATTER OF:

Kunal Dilip Patel

...Appellant

Versus

George Samuel & Anr.

...Respondents

Present:

For Appellant : Mr. Palash S Singhai, Advocates.

**For Respondents : Ms. Eshna Kumar and Ms. Prachi Bhatia,
Advocates for R-1.**

ORDER

25.05.2023: Order which has been impugned in this appeal is dated 15.11.2022 passed by the Adjudicating Authority in I.A. No. 588 of 2022 filed by the Suspended Management as well as I.A. No. 722 of 2022 filed by RP. Suspended Management has filed the I.A. in 2022 challenging constitution of CoC. When the Application came for hearing, Adjudicating Authority asked the learned Counsel whether the Application be treated as Reply to RP's Application, which suggestion was not accepted. Hence the Application was rejected holding it had become infructuous.

2. From the order dated 15.11.2022 it is clear that RP filed the Application 722 of 2022 praying for liquidation, the Adjudicating Authority called upon the Management to file Reply to the Liquidation Application. The Liquidation Application is still under consideration and has not been finally disposed of till date.

3. The Liquidation Application being pending; we are of view that I.A. No. 588 of 2022 may also be considered which decision may have some consequence in the event liquidation is not approved.

4. In view of the above, the order of the Adjudicating Authority holding that the Application 588 of 2022 has become infructuous is set aside. I.A. No. 588 of 2022 may also be considered and disposed of along with the I.A. No. 722 of 2022. We however, make it clear that any resolution taken by the CoC before it is reconstituted, if any, shall have no consequence on its earlier resolutions.

With the above observations, we dispose of this appeal.

[Justice Ashok Bhushan]
Chairperson

[Mr. Barun Mitra]
Member (Technical)

akc/nn