

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) Nos. 121 of 2018
Company Appeal (AT) (Insolvency) Nos. 122 of 2018

IN THE MATTER OF:

Deepak Singhania

...Appellant

Versus

LML Ltd. & Ors.

...Respondents

Present:

For Appellant :

Mr. M.L. Lahoty, Mr. Arvind Kumar Gupta, Ms. Purti Marwaha, Ms. Henna George, Advocates

O R D E R

05.04.2018 Learned counsel for the appellant(s) submits that in terms of settlement between the 'Financial Creditors' and the 'Corporate Debtors' (at pages 82 to 111) a sum of Rs. 99.61 Crores was payable. In the 'Information Memorandum' (at pages 174 onwards), though higher amount has been shown, has been admitted by the Resolution Professional in Note 7 below the said 'Information Memorandum' (page 181). According to him, Section 5 of the '*Sick Industrial Companies (Special Provisions) Repeal Act, 2003*' protects the settlement already reached between the 'Financial Creditor and the 'Corporate Debtor' and therefore, the 'Financial Creditor' cannot claim any amount beyond the settlement. The Resolution Applicant though offered higher amount of Rs. 240 Crores against due amount of Rs. 99.61 Crores but the 'Committee of Creditors' (CoC) rejected the same on presumption that they are entitle to claim Rs. 341 Crores. It is submitted that the CoC by majority vote of 75% can approve

or reject a Resolution Plan, but there should not be any arbitrariness and it should be reasonable and as also transparent

Let notice be issued on the respondents by Speed Post. Requisites alongwith process fee, if not filed, be filed by 9th April, 2018. If the appellant provides *e-mail* address of the respondents, let notice be also issued through *e-mail*.

Post the matter on 3rd May, 2018.

In the meantime, the appellant may file additional affidavit enclosing the copy of 'Form 6' i.e. the application under Section 10 filed by the 'Corporate Debtor' to find out the amount shown by the Corporate Debtor payable to the creditors.

During the pendency of the appeal, there shall be stay of sell or transfer of immovable and moveable assets of the company i.e. the 'Corporate Debtor'. However, it will be open to the liquidator to take other steps in accordance with law subject to the decision of this appeal.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

/ns/gc