

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 460 of 2018

IN THE MATTER OF:

Huzefa Fakhri Sitabkhan

...Appellant

Vs

Committee of Creditors

....Respondent

Present:

For Appellant: Mr. Jayant Mehta, Mr. Ajay Gulati and Mr. Sajal Jain, Advocates.

For Respondent:

O R D E R

20.08.2018: Learned Adjudicating Authority (National Company Law Tribunal), Principal Bench, New Delhi by order dated 30th July, 2018, while disposed of CA-620(PB)/2018, observed as under:

“Having heard the learned counsel for the RP and keeping in view the fact that five resolution plans have been received which are under consideration of the CoC we deem it appropriate to accept the prayer made in the application. Accordingly, the period from 24.05.2017 to 13.07.2017 and 11.05.2018 shall be excluded for counting 270 days as the extension for 270 days was given vide order dated 19.04.2018.”

2. Learned counsel appearing on behalf of the Appellant submits that the observation of the Adjudicating Authority that five resolution plans have been received which are under consideration of the CoC was not correct as all the Resolution Plans were not under the consideration of the CoC. The steps undertaken by the Resolution Professional was shown in the Minutes of the 7th CoC meeting of ‘Shilpi Cable Technologies Limited’, which reads as follows:

“5. Steps Undertaken by the Resolution Professional

*The Chairman made a presentation (enclosed as **Annexure 2**) to the CoC about the steps undertaken by him post the Sixth CoC meeting till the date of the meeting. The Chairman appraised the CoC on the following points:*

- The ERP System has been activated and the Resolution Professional and the team along with the accounts team of the Corporate Debtor are working towards finalisation of the accounts for FY 2017-18.*
- 3 out of the 5 shortlisted Resolution Applicants have completed the due process and access to the Virtual Data Room and the Information Memorandum has been provided to them. Asset Reconstruction Company of India Limited and Bhagyanagar India Limited have not submitted the process fee till date.”*

3. It is submitted that three of the shortlisted Resolution Applicants have completed the due process and given access to the Virtual Data Room and for the said reason the clarification sought for by the Appellant – Resolution Professional has been rejected by the Adjudicating Authority by impugned order dated 31st July, 2018, which reads that “*No clarification is required*”.

4. Having heard learned counsel for the Appellant, we are of the view that the Committee of Creditors should act in terms of its proceeding and factual aspect as noticed by the Adjudicating Authority with regard to five applicants should not construed to be final finding for the purpose of consideration of the

Resolution Plan(s), which should be considered in accordance with Section 30(2) of the I&B Code. The appeal stands disposed of with aforesaid observations. No cost.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice A. I. S. Cheema]
Member (Judicial)

am/uk