

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI
Company Appeal (AT) (Insolvency) No. 297 of 2018

IN THE MATTER OF:

Rashidbhai Ismail Tharadra & 2 Ors.

...Appellants

Vs

Raj Oil Mills Limited & Anr.

...Respondents

Present:

For Appellants: Mr. Rahul Chitnis, Mr. Aaditya A Pande, Mr. Om Prakash Parihar and Mr. Himanshu Desai, Advocates.

**For Respondents: Mr. Rajesh Bohra, Mr. Aditya Narayan and Mr. Uzair Kazi, Advocates.
Mr. Bharat Sangal, Mr. Vikram Trivedi, Ms. Suchitra Valjee and Ms. Babita Kushwaha, Advocates for R-3.**

ORDER

08.08.2018: The Appellant is the Promoter of 'Raj Oil Mills Ltd.' (Corporae Debtor) and is also the Personal Guarantee in favour of the Financial Creditors. His grievance is against the impugned order dated 19th April, 2018 passed by the Adjudicating Authority (National Company Law Tribunal) Mumbai Bench, whereby the Adjudicating Authority approved the resolution plan which was earlier approved by the Committee of Creditors.

2. Learned counsel appearing on behalf of the Appellant initially submitted that the Personal Guarantor have not been heard. However, when we pointed out that there is no question hearing the Personal Guarantor in a Corporate Insolvency Resolution Process and the Appellant being Promoter was also present in the meeting of the Committee of Creditors, it was submitted that the Respondent would have realized total amount from the Resolution Applicant.

3. However, we do not accept such account because it is not a proceeding of recovery and best of the Resolution plan submitted by the Resolution Applicant, which fulfill the conditions in terms of Section 30(2) and as if do not attracts

ineligibility in terms of Section 29A of the Insolvency and Bankruptcy Code, 2016, it is always open to the 'Committee of Creditors' to approve the same. The Adjudicating Authority or this Appellate Tribunal cannot sit on an appeal with respect to financial implications as directed by the Committee of Creditors. If step has been taken against the Appellant under SARFESI Act, 2002 and matter is pending before the Debt Recovery Tribunal and Appellant may seek recourse from competent court.

4. We find no merit in this appeal, it is accordingly dismissed. No cost.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

am/sk