

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 356 of 2018

IN THE MATTER OF:

M/s. Gobins India Engineering Pvt. Ltd. ...Appellant

Vs.

M/s. Basai Steels & Power Pvt. Ltd. & Ors. ...Respondents

Present: For Appellant: - Mr. Shailesh Madiyal and Mr. Sudhanshu Prakash, Advocate.

ORDER

19.07.2018— The Appellant, ‘Operational Creditor’ has challenged the order dated 13th April, 2018 passed by the Adjudicating Authority (National Company Law Tribunal), Hyderabad Bench, Hyderabad, whereby and whereunder the Adjudicating Authority approved the ‘Resolution Plan’ under Section 31(1) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as “I&B Code”) being satisfied that the plan meets all the requirements as provided under sub-section (2) of Section 30 of the ‘I&B Code’.

2. Learned counsel for the Appellant submitted that the Appellant (‘Operational Creditor’) was not provided with all documents as was sought for from the ‘Resolution Professional’. However, the ‘Operational Creditors’ having less than 10% of the total debt amount, in terms of Section 24, the ‘Operational Creditors’ or their representative were not supposed to be called for the meeting of the ‘Committee of Creditors’.

Contd/-.....

3. It was then submitted that the Regulations 36A (5) and 30(5) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Amendment) Regulations, 2018 has not been followed. However, it is not disputed that liquidation value was estimated and shown in the 'Information Memorandum' by the 'Resolution Professional'.

4. Further, we find that the Regulation 36A which relates to the '*Invitation of Resolution Plans*' came into force on 6th February, 2018 but from the letter of the Appellant dated 25th January, 2018, we find that step for preparation of 'Information Memorandum' was taken and applications were called for much prior to 6th February, 2018.

5. Further, as no 'Resolution Applicant' has raised any objection with regard to the 'Information Memorandum', the Appellant- 'Operational Creditor' being not the 'Resolution Applicant, cannot raise grievance.

6. For the reason aforesaid, we are not inclined to interfere with the impugned order dated 13th April, 2018. The appeal is accordingly dismissed. No cost.

(Justice S.J. Mukhopadhaya)
Chairperson

(Justice Bansi Lal Bhat)
Member(Judicial)

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