

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 333 of 2018

IN THE MATTER OF:

Seth Thakurdas Khinvraj Rath

...Appellant

Versus

Cals Refineries Ltd. & Ors.

...Respondents

Present:

For Appellant : **Mr. Ankur Sood and Mr. Roshan Santhalia,
Advocates**

For 1st Respondent: **Mr. Vinod Kumar Chaurasia, Chartered Accountant
and Mr. Rakesh Kumar Jain, Resolution
Professional**

For 2nd Respondent : **Mr. Gulshan Kumar Gupta, Advocate**

O R D E R

02.07.2018 The appellant - 'Operational Creditor' has challenged the order dated 30th May, 2018 passed by the Adjudicating Authority (National Company Law Tribunal), New Delhi Bench whereby and whereunder the application preferred by the appellant for removal of Mr. Rakesh Kumar Jain, 'Resolution Professional' has been rejected and the said 'Resolution Professional' has been directed to continue till the end of the proceedings. The application was filed on the ground that the 'Resolution Professional' has resigned.

Learned counsel appearing on behalf of the appellant submits that in absence of the 'Financial Creditor', the 'Committee of Creditors' was constituted of 'Operational Creditors' and the appellant (Operational Creditor) is one of the

member of the 'Committee of Creditors'. He further submits that the when the 'Resolution Professional' was dissatisfied he resigned, therefore, the Adjudicating Authority ought to have replace him.

Mr. Vinod Kr. Chaurasia, Chartered Accountant appears along with Mr. Rakesh Kumar Jain, 'Resolution Professional'. It is submitted that the Resolution Professional was dissatisfied with the remuneration, which has now been settled. Therefore, he has no objection to continue.

At this stage, learned counsel for the appellant submits that the 'Committee of Creditors' intends to replace the 'Resolution Professional' as they are not satisfied. However, such order cannot be passed in this appeal, as the Resolution Professional cannot be removed except in accordance with Section 27(2) of the Insolvency and Bankruptcy Code, 2016.

For the reasons aforesaid, while we are not intend to interfere with the impugned order dated 30th May, 2018, allow the 'Committee of Creditors' to act in accordance with law.

The appeal stands disposed of with the aforesaid observations. No costs.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

/ns/uk