

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 211 of 2018**

**IN THE MATTER OF:**

**Madhya Gujrat Vij Company Ltd.**

**...Appellant**

**Versus**

**M/s. Kalptaru Alloys Pvt. Ltd. & Ors.**

**...Respondents**

**Present:**

**For Appellant :**           **Mr. Pradeep Misra and Mr. Daleep Dhyani,**  
**Advocates**

**For 1<sup>st</sup> Respondent:**   **Mr. Abhishek Anand and Mr. Anant A. Pavgi,**  
**Advocates**

**For 2<sup>nd</sup> Respondent :**   **Mr. Jayant Mehta, Mr. Sajal Jain and Mr. Mohit D.**  
**Ram, Advocates**

**For 3<sup>rd</sup> Respondent :**   **Mr. R.P. Agrawal, Advocate**

**O R D E R**

**24.09.2018**       The appellant “Madhya Gujarat Vij Company Ltd.’, who was one of the ‘Operational Creditor’ having supplied the electric energy to the ‘Corporate Debtor’ has preferred this appeal under Section 61 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the ‘**I&B Code**’) against order dated 20<sup>th</sup> March, 2018 passed by the Adjudicating Authority (National Company Law Tribunal) Ahmedabad Bench, Ahmedabad whereby and whereunder the ‘Resolution Plan’ submitted by ‘*Shubhmangal Exim Private Limited*’ in coordination with ‘*M/s. Concord Biotech Limited*’ (Respondent No. 2

herein) in respect of the 'corporate insolvency resolution process' against 'M/s. Kalptaru Alloys Pvt. Ltd.' (Corporate Debtor) has been approved.

2. Learned counsel appearing on behalf of the appellant submitted that the impugned order was passed without notice and hearing the appellant (Operational Creditor) but such submission cannot be accepted as there is no requirement to issue notice to the 'Operational Creditor(s)' or any other 'creditors' for approving a 'Resolution Plan' under Section 31 of the I&B Code, having already approved by the 'Committee of Creditors' by majority voting share and in absence of any violation of Section 30(2) of the I&B Code.

3. It was next contended that under the provisions of '*Gujarat Electricity Regulatory Commission (Electricity Supply Code and related matters) Regulations, 2015*', no electrical connection can be restored in favour of the 'Corporate Debtor' till the total amount due to the Electricity Company (appellant herein) is paid. However, such submission cannot be accepted in view of the provisions of Section 31 of the I&B Code, which reads as follows:

*“31. (1) If the Adjudicating Authority is satisfied that the resolution plan as approved by the committee of creditors under sub-section (4) of section 30 meets the requirements as referred to in sub-section (2) of section 30, it shall by order approve the resolution plan which shall be binding on the corporate debtor and its employees, members, creditors, guarantors and other*

*stakeholders involved in the resolution plan.*

- (2) *Where the Adjudicating Authority is satisfied that the resolution plan does not conform to the requirements referred to in sub-section (1), it may, by an order, reject the resolution plan.*
- (3) *After the order of approval under sub-section (1),—*
- (a) *the moratorium order passed by the Adjudicating Authority under section 14 shall cease to have effect; and*
- (b) *the resolution professional shall forward all records relating to the conduct of the corporate insolvency resolution process and the resolution plan to the Board to be recorded on its database.”*

From the aforesaid provision, it is clear that the ‘Resolution Plan’ is binding on the ‘Corporate Debtors’, ‘Financial Creditors’, ‘Operational Creditors’ and all other ‘stakeholders’ including ‘guarantors’. The provision of Section 31 being binding on the appellant - ‘Operational Creditor’, in view of Section 238 of the I&B Code, the provisions of ‘Gujarat Electricity Regulatory Commission

*(Electricity Supply Code and related matters) Regulations, 2015*, cannot override the same.

4. As per the approved 'Resolution Plan' a sum of Rs. 80.80 Lakhs is payable to the appellant (Operational Creditor). The said amount having paid by the successful 'Resolution Applicant', the appellant in its turn is required to restore the electricity connection of the 'Corporate Debtor'. We find no merit in this appeal. It is accordingly dismissed. No cost.

[Justice S.J. Mukhopadhaya]  
Chairperson

[ Justice Bansi Lal Bhat ]  
Member (Judicial)

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