

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 791 of 2018

IN THE MATTER OF:

Dorairaj Thillairaj & Anr.

...Appellant

Versus

Ashok Magnetic Ltd. & Ors

...Respondent

Present:

For Appellant : **Mr. Naresh Kumar and Mr. Dilip Raghavanshi,
Advocates**

For Respondents : **Mr. A. Chatterjee, Mr. Rajiv S. Roy, Mr. Prateek
Kushwaha and Mr. Abhijit S. Roy, Advocates for SBI
& Federal Bank**

O R D E R

04.01.2019 The appellant - nominee Director filed a 'resolution plan' in the 'corporate insolvency resolution process' initiated against M/s. Ashok Magnetics Limited (Corporate Debtor), which was rejected by the 'Committee of Creditors' by its decision on 18th September, 2018. The appellant has challenged the same before the Adjudicating Authority (National Company Law Tribunal), Single Bench, Chennai rejected the application preferred by the appellant (nominee Director of the 'corporate debtor').

Learned counsel appearing on behalf of the appellant submitted that Section 29A (c) mandates that the 'resolution applicant' should either be in control of the affairs of the company which is declared as non-performing asset (NPA) under the Reserve Bank of India guidelines or should be a promoter of the

company, which is declared as NPA. The disqualification laid down will not be applicable to the Appellant.

Mr. A. Chatterjee, learned counsel appearing on behalf of the 'State Bank of India' and 'Federal Bank', who are members of the 'Committee', submitted that the Director, whether 'nominee' or 'paid', being the part of the Board of Directors of another company, which was declared as NPA will also attract the disqualification under Section 29A. It is further submitted that even on financial matrix, the 'resolution plan' submitted by the appellant was not found 'viable and feasible' by the 'Committee of Creditors' apart from the declaration is ineligible under Section 29A (c) of the I&B Code.

Having heard the learned counsel for the parties, while we are not deciding the question whether the appellant is ineligible under Section 29A (c) or not, we are not inclined to grant any relief to the appellant, his 'plan' having already considered on merit by the 'Committee of Creditors', and found to be 'not viable and feasible' on 'financial matrix'.

For the reasons aforesaid, we dismiss the appeal. No cost.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

/ns/gc/