

Learning Curve-1010

November 24, 2023

If after repeated negotiations, a Resolution Plan has been approved by CoC, such commercial wisdom is not required to be called into question or casually interfered with by the AA

CASE TITLE	Ramkrishna Forgings Ltd Vs. Ravindra Loonkar, RP of Acil Ltd & Anr.
CASE CITATION	Civil Appeal No.1527 of 2022
DATE OF ORDER	November 21, 2023
COURT/ TRIBUNAL	Supreme Court of India, New Delhi

BRIEF FACTS:

A resolution plan submitted by the appellant was approved by the CoC by a majority of 88.56% votes. The RP moved an application for approval of resolution plan before the AA. The AA kept in abeyance the approval of resolution plan and directed the RP for revaluation of assets of the CD. The appellant being aggrieved preferred an appeal before the NCLAT. NCLAT by the impugned order dismissed the appeal and upheld the decision of the AA.

DECISION:

The Hon'ble Supreme Court, New Delhi, allowed the appeal and held that,

"Having considered the matter in depth, the Court is unable to uphold the decisions rendered by the Adjudicating Authority-NCLT as also the NCLAT. The moot question involved is the extent of the jurisdiction and powers of the Adjudicating Authority to go on the issue of revaluation in the background of the admitted and undisputed factual position that no objection was raised by any quarter with regard to any deficiency/irregularity, either by the RP or the appellant or the CoC, in finally approving the Resolution Plan which was sent to the Adjudicating Authority-NCLT for approval...

Stricto sensu, it is now well-settled that it is well within the CoC's domain as to how to deal with the entire debt of the Corporate Debtor. In this background, if after repeated negotiations, a Resolution Plan is submitted, as was done by the appellant (Resolution Applicant), including the financial component which includes the actual and minimum upfront payments, and has been approved by the CoC with a majority vote of 88.56%, such commercial wisdom was not required to be called into question or casually interfered with...

It is worthwhile to note that the Adjudicating Authority has jurisdiction only under Section 31(2) of the Code, which gives power not to approve only when the Resolution Plan does not meet the requirement laid down under Section 31(1) of the Code, for which a reasoned order is required to be passed."