

Learning Curve-1011

November 29, 2023

Resolution Plan cannot be faulted on the ground of the promissory estoppel against the RP who has admitted the claim of creditors.

CASE TITLE	Fervent Synergies Limited Vs. Manish Jaju & Ors.
CASE CITATION	Company Appeal (AT) (Insolvency) No.1338 of 2023
DATE OF ORDER	November 02, 2023
COURT/ TRIBUNAL	NCLAT, New Delhi

BRIEF FACTS:

The appellant raised objection to the resolution plan submitted by the SRA and filed an IA before the AA. The Resolution Plan does not recognize 10 flats sold to the Appellant on the ground that LICHFL has not given NOC in respect of the said flats. The AA rejected the application. The appellant challenging the impugned order submits that the claim of appellant was accepted by the RP, there was no question to treat the admitted claim of the Appellant differently from other Homebuyers and the Respondents are bound by principle of promissory estoppel and cannot deny the claim, which was admitted by the RP.

DECISION:

The Hon'ble NCLAT, New Delhi, held that,

“Acceptance or admission of the claim of a Financial Creditor including homebuyers is one aspect of the scheme under the IBC. Subsequent steps in the IBC including the preparation of Resolution Plan are based on the list of creditors, admitted claims of the creditors etc. as per the scheme of the IBC, but the principle of promissory estoppel cannot be pressed against the Resolution Applicant, who submits Resolution Plan on the basis of relying on the Information Memorandum, the list of creditors and other aspect of the matter. The Resolution Applicant has not extended any promise to the Financial Creditors of the Corporate Debtor that the claim submitted by Financial Creditor or any other creditor shall be accepted in toto. The mandatory contents of the Resolution Plan are laid down in the CIRP Regulations, 2016. If a Resolution Plan is compliant with the provision of Section 30, sub-section (2) of the IBC and the provisions of the Regulations, 2016, the Plan cannot be faulted on the ground of the promissory estoppel, which the Appellant is pressing against the Resolution Professional, who has admitted the claim...”

We are of the view that the Adjudicating Authority did not commit any error in rejecting the objections filed by the Appellant to the Resolution Plan. There is no merit in the Appeal. The Appeal is dismissed.”