

Learning Curve-1029

March 08, 2024

The AA can't direct CoC to consider the suspended management's settlement proposal, without giving opportunity to Successful RA to respond.

CASE TITLE	One City Infrastructure Pvt. Ltd. Vs. Pratham Expofab Private Limited & Ors.
CASE CITATION	Company Appeal (AT) (Insolvency) No.287 of 2024
DATE OF ORDER	February 28, 2024
COURT/ TRIBUNAL	NCLAT, New Delhi

BRIEF FACTS:

The Ex. Director of CD filed an application before the AA to allow him to place the settlement proposal under Sect 12(A) of IBC before the CoC, and allow consequent withdrawal and suspension of CIRP admitted under sec 9 of IBC. AA passed an order directing the RP to call a meeting of the CoC to examine the proposal made by Applicant vis-à-vis proposal made by SRA. Aggrieved by the said order, this Appeal has been filed. It is submitted that after approval of Resolution Plan, there is no jurisdiction in the AA to direct for consideration of any Application under Section 12A.

DECISION:

The Hon'ble NCLAT, New Delhi held that,

"In the facts of the present case, we are of the view that Adjudicating Authority, ought to have allowed opportunity to SRA to respond to the Application (IA No.188 of 2024 filed by Respondent Nos.1 and 2), whose Resolution Plan has been approved by the CoC and which is pending consideration before the Adjudicating Authority. Without giving an opportunity to the Appellant, direction to the CoC to consider the Plan, cannot be sustained..."

The Application for approval of Resolution Plan being pending consideration, it shall be open for the Adjudicating Authority to consider IA No.188 of 2024 along with its objection. In view of giving opportunity to the Appellant to file objections to the IA No.188 of 2024, we desist from entering into various issues, which may arise for consideration by the Adjudicating Authority while deciding IA No.188 of 2024 along with its objections.

In result, the impugned order of the Adjudicating Authority dated 23.01.2024 passed in IA No.188 of 2024 is set aside."