

COC is empowered to take a decision in regard to liquidation of the Corporate Debtor even after an application has been filed by the Resolution Professional placing the Resolution Plan approved by the COC before the Adjudicating Authority for approval.

CASE TITLE	Gulabchand Jain Vs. Ramchandra D Choudhary Resolution Professional of Vijay Timber Industries Pvt Ltd. ¹
CASE CITATION	Company Appeal (AT) (Insolvency) No. 142 of 2021
DATE OF ORDER	02.03.2021
COURT/TRIBUNAL	NCLAT
CASES REFERRED	-
SECTION/REGULATION REFERRED	Section 33(2) of IBC, 2016

Brief of the case:

The issue raised in this appeal preferred against order dated 31st December, 2020 passed by the National Company Law Tribunal, Ahmedabad Bench, sending the Corporate Debtor into liquidation on the recommendation of the Committee of Creditors (COC) comprising of the sole lender Punjab National Bank is that the Rules of Natural Justice have not been followed by the COC.

Decision:

Hon'ble NCLAT dismissed the appeal and held as below:

"2. ..That apart, under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 read together with explanation inserted by Act 26 of 2019 enforced w.e.f. 16th August, 2019, the COC is empowered to take a decision in regard to liquidation of the Corporate Debtor even after an application has been filed by the Resolution Professional placing the Resolution Plan approved by the COC before the Adjudicating Authority for approval. Of course, the withdrawal of the Resolution Plan can be done before its approval by the Adjudicating Authority. This implies that even after approval of the Resolution Plan by the COC and laying it before the Adjudicating Authority, the COC can change its mind and pass a Resolution liquidating the Corporate Debtor subject to only exception that such course cannot be adopted after its confirmation i.e. after approval of the Resolution Plan by the Adjudicating Authority.."



QR CODE FOR FULL ORDER/JUDGEMENT:

¹<https://nclat.nic.in/Useradmin/upload/71430524603e310bce74b.pdf>