

Business decision taken in exercise of commercial wisdom of Committee of creditors would not warrant judicial intervention

CASE TITLE	India Resurgence ARC Pvt Ltd Vs. Amit Metaliks Ltd &Anr ¹
CASE CITATION	Company Appeal (AT) (Insolvency) No.1061 of 2020
DATE OF ORDER	02.03.2021
COURT/TRIBUNAL	NCLAT, New Delhi
CASES REFERRED	Committee of Creditors of Essar Steel India Limited Vs. Satish Kumar Gupta and Others
SECTION/REGULATION REFERRED	Section 30(4) of IBC, 2016

Brief of the case:

The appellant contended that while approving the Resolution Plan value and quality of security interest of the Appellant was not considered by the Successful Resolution Applicant and the Committee of Creditors. The Adjudicating Authority approved the Resolution Plan of Respondent No.1 (Successful Resolution Applicant) in terms of order dated 20th October, 2020 which has been assailed by ‘India Resurgence ARC Pvt. Ltd.’ - the dissenting Secured Financial Creditor having a vote share of 3.94% and a COC Member, through the medium of instant appeal primarily on the ground that the approved Resolution Plan failed to deal with the interests of the all the stakeholders.

Decision:

Hon’bleNCLAT dismissed the appeal and held as below:

“7. It abundantly clear that the considerations including priority in scheme of distribution and the value of security are matters falling within the realm of Committee of Creditors. Such considerations, being relevant only for purposes for arriving at a business decision in exercise of commercial wisdom of the Committee of Creditors, cannot be the subject of judicial review in appeal within the parameters of Section 61(3) of I&B Code...However, such business decision taken in exercise of commercial wisdom of Committee of creditors would not warrant judicial intervention unless creditors belonging to a class being similarly situated are not given a fair and equitable treatment.”



QR CODE FOR FULL ORDER/JUDGEMENT:

¹<https://nclat.nic.in/Useradmin/upload/1568493043603e2630cc166.pdf>