

Permitting Successful Resolution Applicant to withdraw after the Plan has been approved will have serious disastrous effect on whole purpose and object of IBC.

CASE TITLE	Shraddha Buildcon Pvt. Ltd. v/s. The Dhar Textile Mills Ltd. ¹
CASE CITATION	Company Appeal (AT) (Ins) No. 1128 of 2022
SECTIONS/ REGULATION	Section 30, Section 53 of IBC, 2016 and Regulation 38A and 39 of CIRP Regulations
DATE OF ORDER	28.09.2022
COURT/ TRIBUNAL	NCLAT, New Delhi
CASE LAW REFERRED	<i>Ebix Singapore Pvt. Ltd. vs. Committee of Creditors of Educomp Solutions Ltd. & Anr</i>

Brief of the case:

This application was filed against the order of NCLT, Indore Bench wherein Adjudicating Authority had rejected the application of the applicant praying for withdrawal of resolution plan approved by the AA. Aggrieved by the said order, this application was filed before the appellate tribunal. Appellant submitted that since he had no financial capacity to implement the plan he should have been allowed to withdraw.

Decision:

Hon'ble NCLAT dismissed the application and held that,

"..In event the submission of the Appellant is accepted that due to financial difficulty he is unable to implement the plan and he be permitting to go back from the commitments made in the Resolution Plan, it shall have disastrous effect on the entire process undertaken. The IBC process consists of different steps with a ultimate object of reviving the Corporate Debtor. Permitting Successful Resolution Applicant to withdraw after the Plan has been approved will have serious disastrous effect on whole purpose and object of IBC. On the submission made by Counsel for the Appellant that since he had no financial capacity to implement the plan he should have been allowed to withdraw, the Adjudicating Authority has rightly rejected his application.

It is further submitted that financial in-capacity of the Appellant was due to no fault of the Appellant and it was due to subsequent developments. The above argument also cannot entitle the Appellant to withdraw from an approved Resolution Plan."

QR CODE FOR FULL ORDER/JUDGEMENT:



¹ <https://ibbi.gov.in/uploads/order/50414b7f296944045d56cefe3d261726.pdf>