(2020) 01 NCLT CK 0049

In the National Company Law Appellate Tribunal

Case No : (IB) No. 563(PB) Of 2018

Andhra Bank APPELLANT

Vs

Kalpataru Steel Rolling Mills Ltd. RESPONDENT

Date of Decision : 31-01-2020

Acts Referred:
Insolvency And Bankruptcy Code, 2016 — Section 30(2), 31

Citation : (2020) 01 NCLT CK 0049

Hon'ble Judges : B.S.V. Prakash Kumar, J;Santanu Kumar Mohapatra, Member (Technical)

Bench : Division Bench

Advocate : Anoop Prakash Awasthi, Gautam Kumar, N.P. Gaur

Final Decision : Dismissed

Judgement

C.A. No. 1077(PB)/2019

It is an application filed by the Dissenting Financial Creditor namely Andhra Pradesh State Financial Corporation (APSFC) stating that the money apportioned to this Dissenting Financial Creditor in the Resolution Plan is not in accordance with Section 30(2) of the Code.

On perusal of this application and also on hearing the RP, it appears that the total money coming into the Company is Rs. 26.19 crore as against the total admitted claim of Rs. 136.28 crore, the liquidation value of the company is Rs. 25.87 crore. It is evident on record, CoC approved the resolution plan, now it is pending before this Bench for approval of this Resolution Plan as contemplated under Section 31 of the IBC, 2016.

Now the grievance of this Applicant is that the distribution of the plan value is not proportionate to the assets mortgaged by the Corporate Debtor to the applicant, since this Applicant is not getting value proportionate to the assets mortgaged to it, he says that the Resolution Plan shall not be approved and it has to go for liquidation.

On looking at the figures given by the RP showing Rs. 16.93 crores coming to the Assenting Financial Creditor as against its claim of Rs. 90.33 Crore, and this Dissenting Financial Creditor is entitled to get only Rs. 8.67 crores as against the admitted claims of Rs. 46.26 crores as per the voting share in between the Assenting Financial Creditor and Dissenting Financial Creditor. The assenting financial creditor voting share is 66.13%, whereas the dissenting financial creditor is 33.87%. The amount distributed in between the assenting creditor and the dissenting creditor being 18.74% of their admitted claims, it cannot be said that the Plan has unfairly dealt with the applicant.

In view thereof, we are of the view that the RP has rightly calculated the apportionment as per the voting shares, it is being evident on record that this apportionment is not hit by Section 30(2)(b)(ii) of the IBC Regulations, we hereby dismissed this application as misconceived.

