
(2025) 01 NCLAT CK 1686

In the National Company Law Appellate Tribunal, Pricipal Bench, New Delhi

Case No : Company Appeal (AT) (Insolvency) No. 173 of 2025

Ramesh Jadhav

APPELLANT

Vs

Vakati Balasubramnayam Reddy & Anr

RESPONDENT

Date of Decision : 28-01-2025

Acts Referred:

Citation : (2025) 01 NCLAT CK 1686

Hon'ble Judges : Ashok Bhushan, Chairperson; Barun Mitra, Member (T); Arun Baroka, Member (T)

Bench : Full Bench

Final Decision : Dismissed

Judgement

28.01.2025: Heard learned counsel for the Appellant. This Appeal has been filed against order dated 07.01.2025 by the Appellant who claims to be Suspended Director of the Corporate Debtor. The order has been passed in IA No.5211 of 2023 which was filed by the Appellant. The prayers made in the application have been quoted in Para 1 of the order, which are as follows:

"A. Debar the RP from acting as the Resolution Professional of the Corporate Debtor;

B. Recall order passed by this Hon'ble Tribunal on 05.09.2023 for time extension.

C. Accepted resolution plan by COC be set aside;

D. Decide this Application in a time bound manner;

E. The Corporate Debtor be ordered to be dealt under the Liquidation Proceedings;

F. Impose heavy cost upon the RP;

G. Pass any such order/orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present case."

2. When we look in to the prayers, the prayer is to debar the Resolution Professional from acting as the Resolution Professional and recall order dated 05.09.2023 and accepted resolution plan by the CoC be set aside. The Adjudicating Authority after hearing the applicant and other side has passed the order rejecting the application filed by the Appellant.

3. Learned counsel for the Appellant challenging the order contends that the Adjudicating Authority has permitted withdrawal of the liquidation application without there being any resolution of the CoC which itself was impermissible.

4. The Adjudicating Authority in Para 2 of the findings have noted that the resolution was passed by the CoC by filing application for extending CIRP period for 90 days and on the basis of said resolution an application was filed; which extension was allowed by the Adjudicating Authority. The Adjudicating Authority observed that since resolution was already passed by the CoC seeking extension of the CIRP period, the Corporate Debtor did not go into compulsory liquidation under Section 33(1)(A) of the Code. It was also noticed that the Resolution Professional has also filed an application for issuance of revised Form G and 5th meeting of CoC held on 11.01.2023 has also voted on "Approval to make an application to NCLT for permission to publish Form G for the third time to invite fresh Resolution Applicants.". With the aforesaid approval of the CoC, the application was filed.

5. The Adjudicating Authority, thus, did not commit any error in rejecting the application filed by the Appellant praying for recall of order dated 05.09.2023 and debar Resolution Professional. The submission of the Appellant that there was no decision of the CoC permitting withdrawal of the liquidation application, hence, the Adjudicating Authority committed error in permitting withdrawal of application, does not commend us. When the CoC has already taken decision to file application for extension of time and granting permission to publish Form G for third time, no error was committed by the Adjudicating Authority by permitting withdrawal of the liquidation application, in facts of the present case. We, thus, do not find any grounds to interfere with the impugned order. There is not merit in the Appeal. Appeal is dismissed.