

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Company Appeal (AT) (Insolvency) No. 312 of 2023

IN THE MATTER OF:

Consolidated Finvest & Holdings Ltd.

...Appellant

Versus

**Subhash Kumar Kundra,
Resolution Professional – CLC Industries Ltd. & Ors. ...Respondents
Present:**

For Appellant: Mr. Kanishk Khetan, Ms. Varsha Banerjee,
Advocates

For Respondent: Ms. Prachi Johri, Advocate For R-2
Ms. Honey Satpal, Mr. Rohit Sharma, Advocates for
R-1

ORDER

21.03.2023: Heard Learned Counsel for the Appellant.

2. This Appeal has been filed against the Order dated 25.01.2023 by which order I.A. No. 3922 of 2021 filed by the Appellant-Financial Creditor of the Corporate Debtor has been rejected.

3. In the application, the Appellant has made following prayers:

“a. Allow the instant application;

b. Declare that the CIRP of the Corporate Debtor herein, i.e., CLC Industries Limited suffers from material irregularity in exercise of powers by the RP;

- c. Allow extension of 90 days in the CIRP of the Corporate Debtor so that fresh EoIs may be invited for submission of Resolution Plans and a proper and legal process may be conducted;*
- d. Declare the Resolution Plan of the Joint RA as non-complaint, discriminatory and unjust;*
- e. Set aside the approval (by the CoC) of the Resolution Plan submitted by the Consortium RA;*
- f. Stay the approval of Resolution Plan under Section 31 till the disposal of this instant application;*
- g. Dismiss the application filed by the RP for approval of the Resolution Plan under Section 30(6) and reject the Resolution Plan by the Joint RA under Section 31(2) of the Code;*
- h. Allow the Applicant to submit its Resolution Plan before the CoC for its consideration;*
- i. Ex-parte ad interim stay in terms of the above prayers;*
- j. Any other relief that this Hon'ble Tribunal may consider necessary in the interest of justice, equity and fair play.”*

4. Learned Counsel for the Appellant submits that the Appellant was challenging the entire process which was not legally done hence prayer was made to issue fresh EoI and Appellant does not want liquidation of the Corporate Debtor but was interested in resolution of the Corporate Debtor.

5. In the present case, the Corporate Insolvency Resolution Process was initiated on 03.01.2020 and Form-G was issued on 17.03.2020 and extended for six times and the Resolution Plans received were deliberated and approved by the Committee of Creditors on 05.04.2021 and the Resolution Professional has filed the Application on 20th April, 2021 for approval of the plan and the Appellant has come up by filing this Application only on 04th September, 2021 raising objections. It is submitted that out of sixteen CoC meeting, only in one CoC meeting, the Appellant attended and neither he voted in any agenda nor raised any objection regarding the process.

6. We have considered the submissions of Learned Counsel for the Appellant and have perused the record.

7. Financial Creditor of the Corporate Debtor have been given rights as per IBC to take steps for resolution of the Corporate Debtor and financial creditor who does not attend the proceeding, can not be heard in saying that process has wrongly been conducted. From the facts it is clear that Form-G was issued and thereafter it was extended for six times. Appellant has made several prayers in his application and one of the prayers is that Appellant be permitted to file fresh plan however Appellant has not filed any plan in response to Form G, hence there is no occasion for filing any Resolution Plan afresh. All the prayers made in the application have rightly been rejected by the Adjudicating Authority.

8. Learned Counsel for the Appellant lastly contended that cost as directed by the Adjudicating Authority to be paid, may be reduced. It is submitted that cost earlier imposed was Rs. 25 Lakh which was already reduced to Rs. 10

Lakh. We do not intend to reduce the cost as directed by the Adjudicating Authority.

We do not find any merit in the Appeal, the Appeal is dismissed.

**[Justice Ashok Bhushan]
Chairperson**

**[Barun Mitra]
Member (Technical)**

Basant/nn