

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

Company Appeal (AT) (Insolvency) No.650 of 2023

IN THE MATTER OF:

Gayatri Polyrub Pvt. Ltd. ...Appellant

Versus

Anil Kohli & Anr. ...Respondents

Present:

For Appellant: None.

For Respondents: Mr. Abhishek Anand, Mr. Karan Kohli, Mr. Sajal Jain and Ms. Lubhanshi Rai, Advocates for R-1 (RP)

Mr. Sanjay Bajaj, Mr. Shivam Takkar, Advocates for R-2.

With

**Company Appeal (AT) (Insolvency) No.657 of 2023
& I.A. No. 2192 of 2023**

IN THE MATTER OF:

Harish Manocha ...Appellant

Versus

Punjab & Sind Bank & Anr. ...Respondents

Present:

For Appellant: Mr. Abhinav Tyagi, Advocate.

For Respondents: Mr. Abhishek Anand, Mr. Karan Kohli, Mr. Sajal Jain and Ms. Lubhanshi Rai, Advocates for R-1 (RP)

Mr. Sanjay Bajaj, Mr. Shivam Takkar, Advocates for R-2.

O R D E R

03.10.2023: These two Appeals have been filed against same order passed by the Adjudicating Authority dated 15.03.2023 by which application filed by Resolution Professional for liquidation has been allowed. These

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Appeals have been filed by both the Appellant stating that they were willing to give a higher offer but without considering their offer liquidation order has been passed.

2. When Company Appeal (AT) (Insolvency) No.657 of 2023 was taken on 26.05.2023 following order was passed:

“O R D E R

26.05.2023: *Learned Counsel for the Appellant submits that these two appellants are resolution applicants whose plans were not approved and order for liquidation has been passed. The Appellant submits that both the Resolution Applicants were ready to enhance the plan value more than the liquidation value and no reasons have been given by the Committee of Creditors as to why their plans have been rejected.*

Learned Counsel appearing for the CoC submits that plans were not approved with 100% votes and now the auction notice has been issued for sale as a going concern. Learned Counsel for the CoC submits that in event the appellants are still ready to offer higher value than the reserve price, instructions shall be obtained from CoC.

Let the Appellants give their offer to the Liquidator.

List these Appeals on 5th July, 2023. Learned Counsel for the Committee of Creditors may bring on record all minutes of the CoC meeting. In view of the above, Liquidator shall not proceed to auction the asset till the next date.”

3. In subsequent order passed by this Tribunal on 20.09.2023, Counsel for the CoC informed that Mr. Harish Manocha has submitted a revised offer along with EMD and however, no revised offer has been submitted by Gayatri Polyrub Pvt. Ltd. By order dated 20.09.2023, time was allowed to filed an affidavit by CoC. The CoC has now filed an affidavit where it has been stated that the comparison table of both offers have been given and in Para 14 following has been stated:

“14. After taking into consideration the latest offer dated 04.08.2023 as submitted by the Appellant 1 and offer dated 08.07.2023 as submitted by the Appellant 2 on 10.07.23, the Respondent No.1 finds that offer made by Appellant 1 is acceptable if this Hon'ble Appellate Tribunal permits for the withdrawal of liquidation process and extends the time for CIRP. That once the CIRP is restored, CoC finds the offer made by Appellant 1 shall be acceptable as it will in fact help in maximising the yield out of resolution process initiated against the Corporate Debtor.”

4. Learned counsel for the CoC submits that the revised offer submitted by Mr. Harish Manocha needs to be considered by the CoC provided the Court permits withdrawal of the liquidation process and extending the time for CIRP. It is further sub mitted that the offer given by Mr. Harish Manocha is more than the liquidation value.

5. In view of the facts of the present case, we are of the view that ends of justice be served in giving one opportunity to the CoC to consider the Plan/Revised Offer and take decision on the said offer.

6. It is well settled that objective of the IBC is to revive the Corporate Debtor and liquidation is the last resort. In view of the aforesaid, we set aside order directing for liquidation and extend the CIRP for a period of 60 days from today to complete the process.

7. It is made clear that in event Resolution Plan is approved, an application be filed for approval of the plan before Adjudicating Authority. In event, Resolution Plan is not approved, the Resolution Professional shall immediately file application for liquidation.

8. Learned counsel for the CoC submits that only Revised Offer has been submitted by Mr. Harish Manocha and no revised offer has been submitted by Gayatri Polyrub Pvt. Ltd. We, thus, make it clear that CoC shall consider only Revised Offer submitted by Mr. Harish Manocha.

9. Both the Appeals are disposed of accordingly.

**[Justice Ashok Bhushan]
Chairperson**

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

**[Arun Baroka]
Member (Technical)**

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