

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 117 of 2018

IN THE MATTER OF:

Mahesh Kumar Panwar

...Appellant

Versus

Abhishek Anand

...Respondent

Present: For Appellant :

Mr. H.S. Sharma, Advocate

O R D E R

06.04.2018 This appeal has been preferred by one Mr. Mahesh Kumar Panwar, Director of M/s. Mega Soft Infrastructure Pvt. Ltd. against the order dated 28th February, 2018 whereby and whereunder the Adjudicating Authority (National Company Law Tribunal), New Delhi Bench decided to proceed with the liquidation proceeding on the recommendation of the Committee of Creditors.

2. Learned counsel for the appellant submits that the resolution process has not been completed in accordance with the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the 'I&B Code'). The details of the creditors was not recorded by the 'Resolution Professional' nor the procedure has been followed calling for the applications from the 'Resolution Applicant'. Without following the procedure for resolution process, the impugned order of liquidation has been passed.

3. It is further submitted that if the procedure would have been followed the details of the creditors could have been noted after receiving the claim. The

matter could have been resolved if resolution application had been called for. In such case there was no occasion to order liquidation.

4. We have heard the learned counsel for the appellant and perused the record. From the record, we find that the Directors have not cooperated with the Resolution Professional. The title deeds of the properties belonging to the 'Corporate Debtor' and other records were not supplied to the 'Resolution Professional'.

5. Learned counsel for the appellant submits that the mails were sent to the 'Resolution Professional' but such submission cannot be accepted as in terms of the I & B Code the Board of Directors was required to co-operate with the 'Resolution Professional' and to provide all the records including title deeds of the properties belonging to the 'Corporate Debtor'. In absence of the record, the 'Resolution Professional' and 'Committee of Creditors' could not proceed. The resolution process started on 23rd August, 2017 and 180 days expired on 19th February, 2018. Taking into consideration the fact already 180 days has completed and the Directors were not co-operating with the 'Resolution Professional' or 'Committee of Creditors', the Adjudicating Authority had no option but to pass order in accordance with Section 3 of the I & B Code, we find no merit in the appeal. The appeal is dismissed. No. cost.

[Justice S.J. Mukhopadhaya]
Chairperson

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