

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 882 of 2020

In the matter of:

Naveen Kumar Jain

....Appellant

Vs.

**Committee of Creditors of K.D.K Enterprises Pvt.
Ltd. & Ors.**

....Respondents

Present:

**Appellant: Mr. Harsh Tikko and Mr. Naveent Kumar Jain,
Advocates.**

ORDER

(Through Virtual Mode)

03.11.2020: After hearing learned counsel for the Appellant, we find that the Appellant who had been appointed as Interim Resolution Professional, had approached the Adjudicating Authority (National Company Law Tribunal), Court-V, New Delhi, under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 ("I&B Code" for short) for seeking payment of fee and staying of his replacement. The prayer was declined on the ground that the wisdom of Committee of Creditors is beyond the pale of challenge. In the instant case, the sole Financial Creditor (Indian Bank) has voted to replace the Resolution Professional under Section 22 of the 'I&B Code' which means the replacement is sought with 100% voting shares while the requisite vote is 66%. It is well settled that the commercial wisdom of the Committee of Creditors which covers matters including the replacement of the Resolution Professional does not fall within the limited scope of judicial review and is not justiciable.

Contd/-.....

In so far as the issue regarding fee is concerned, the Adjudicating Authority has rightly observed that under Regulation 33(3) of the IBBI, fee has been fixed by the Committee of Creditors at Rs.50,000/- which does not brook interference. In view of the same, we are not inclined to interfere with the impugned order which does not suffer from any legal infirmity.

The appeal is dismissed. No costs.

[Justice Bansi Lal Bhat]
Acting Chairperson

[Justice Jarat Kumar Jain]
Member (Judicial)

[Kanthi Narahari]
Member (Technical)

AR/g