

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI
Company Appeal (AT) (Insolvency) No. 953 of 2019

IN THE MATTER OF:

Naresh Kumar Sharma & Ors.

...Appellants

Versus

Oriental Bank of Commerce & Anr.

...Respondents

Present:

For Appellant :

**Mr. Virender Ganda, Senior Advocate with
Mr. Rakesh Kumar, Mr. Dhruv Gupta, Mr. Ayandeb
Mitra and Mr. Anand Singh Sengar, Advocates**

For Respondents :

**Mr. Shashank and Ms. Richa, Advocates for 'OBC
Bank'
Mr. Abhishek Anand, Advocate for 'Resolution
Professional'**

O R D E R

16.09.2019 The Appellant/Promoter filed an application under Section 60(5) of the 'I&B Code' seeking direction TO the 'Resolution Professional' to provide financial details of the 'Corporate Debtor' with respect to the hotel operation and necessary details with regard to the 'valuation report'. The Adjudicating Authority (National Company Law Tribunal), New Delhi by impugned order dated 26th August, 2019 dismissed the application.

Learned counsel appearing on behalf of the Appellant submits that the aforesaid details are required for valuation of the properties which is Rs. 432 Crores, whereas the 'resolution plan' shows that the 'valuation' of the property is Rs. 143 Crores. However, as we find that the 'resolution plan' has already been provided to the Appellant/Promoter, we are not inclined to interfere with the impugned order dated 26th August, 2019 for the following reasons:

The 'Information-Memorandum' was prepared by the 'Interim Resolution Professional' and was published allowing the 'Resolution Applicant' to submit

an 'Expression of Interest' followed by the 'resolution plan'. As the Information-Memorandum' contained all the details, including the financial details of the 'Corporate Debtor', it was open to the Appellant to go through the Information Memorandum, which was made public. There is nothing on record to suggest that the Appellant/Promoter approached the 'Interim Resolution Professional' and sought for the information and if so, objection was raised by the 'Promoter' against the 'Information-Memorandum', which contains the financial details of the 'Corporate Debtor', by filing an application under sub-section (5) of Section 60. On the other hand the record shows that after initiation of 'corporate insolvency resolution process', the 'Promoters' were not cooperating with the 'Insolvency Resolution Professional which causes delay. For the said reason, if any infirmity is found, 'Promoters' can blame themselves.

In view of the provisions of the 'I&B Code', it is expected that as far as the facts have been noticed by the 'Committee of Creditors', if no objection is there by the Appellant, he may bring the same to the notice of the Adjudicating Authority who in its turn can check the financial details of the 'Corporate Debtor' in respect of the hotel operations and valuation report.

The appeal stands disposed of with aforesaid observations.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice A.I.S. Cheema]
Member (Judicial)

[Kanthi Narahari]
Member (Technical)

/ns/gc