

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 579 of 2018

IN THE MATTER OF:

Achuthan Thazhathehil & Ors.

...Appellants

Vs

**CS Satyadevi Alamuri, R.P. of
M/s GB Engineering Enterprises Pvt. Ltd. & Ors.**

....Respondents

Present:

**For Appellants: Mr. D. Srinivasan and Mr. G. Ananda Selvam,
Advocates.**

For Respondents: Ms. Madhusmita Bura, Advocate for R-2.

O R D E R

25.09.2018: This appeal has been preferred by Appellant – ‘Achuthan Thazhathehil’, Promoter of ‘M/s GB Engineering Enterprises Pvt. Ltd.’ (Corporate Debtor) against order dated 6th August, 2018, whereby the Adjudicating Authority (National Company Law Tribunal), Single Bench Chennai entertained the application filed by the Resolution Professional under Section 33(1)(a) of the Insolvency and Bankruptcy Code, 2016 (for short ‘I&B Code’) and ordered for liquidation of the Company.

2. Learned counsel appearing on behalf of the Appellant submitted that the Corporate Debtor has moved an application under Section 10 of I&B Code before the Adjudicating Authority as the operation of Corporate Debtor and working capital were strained on account of recession in the Boiler Industry during last five years and servicing of term loan account of ACGBEPL in the capacity of Co-Guarantor and non-processing of proposal to restructure the term loan by SBI has failed. There was a talk going on with a Finland Company namely ‘M/s Andritz Oy.’ And in the 75th Board Meeting of ‘Enmas Andritz Pvt. Ltd.’, a Group Company of the Corporate Debtor, considered the same for merging the Group Company with ‘M/s Andritz Oy’. It is submitted that the aforesaid fact has not been considered by the Adjudicating Authority or the Resolution Professional.

3. It is not in dispute that there was no resolution plan submitted by any of the Resolution Applicants inspite of the fact that Information Memorandum was published and applications were called for by the Resolution Professional. If 'M/s Andritz Oy.' was interested for taking over the Corporate Debtor, it could have submitted a resolution plan with its proposal. However, no such plan having submitted by any person, the Resolution Professional or the Committee of Creditors and the Adjudicating Authority had no other option but to pass order under Section 33(1)(a) of the I&B Code for liquidation of the Company.

4. In the circumstance no interference is called for. In absence of any merit, the appeal is dismissed. No cost.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

am/gc