

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 1212 of 2019

IN THE MATTER OF:

S. Boomadevi & Anr.

...Appellants

Versus

**M/s. PRC International Hotels Pvt.
Ltd. & Ors.**

...Respondents

Present:

For Appellant :

**Mr. Naveen Kumar and Mr. Shantanu Singh,
Advocates**

ORDER

13.11.2019 The Appellant – ‘Shareholder’ filed this appeal against an order dated 27th August, 2019 passed by the Adjudicating Authority (National Company Law Tribunal), Division Bench, Chennai. In the impugned order the ‘resolution plan’ submitted by ‘Sai Baba Business solutions Pvt. Ltd.’ has been approved.

The learned counsel appearing on behalf of the Appellant submits that there was a collusion between 7th & 8th Respondent and the erstwhile Managing Director and Rupees Five Crores in cash has been approved. But such ground cannot be accepted to annul a ‘resolution plan’ which can be challenged on the following grounds:

“61 (3) An appeal against an order approving a resolution plan under section 31 may be filed on the following grounds, namely:—

- (i) the approved resolution plan is in contravention of the provisions of any law for the time being in force;
- (ii) there has been material irregularity in exercise of the powers by the resolution professional during the corporate insolvency resolution period;
- (iii) the debts owed to operational creditors of the corporate debtor have not been provided for in the resolution plan in the manner specified by the Board;
- (iv) the insolvency resolution process costs have not been provided for repayment in priority to all other debts; or
- (v) the resolution plan does not comply with any other criteria specified by the Board.”

The learned counsel for the Appellant submitted that the ‘resolution plan’ is not in accordance with law but on bare perusal of the impugned order, we find that the ‘Committee of Creditors’ had noticed that the plan is approved with 89.51% of the voting share. The Adjudicating Authority also noticed that the ‘Resolution Plan’ submitted by the ‘Resolution Applicant – ‘M/s. Sai Baba Business Solutions Pvt. Ltd.’ for a sum of Rs. 28,55,06,654/- and distribution in favour of ‘Secured’ and ‘Unsecured Creditors’ have been shown therein. Even ‘Unsecured Financial Creditors’ have been provided with 27.53% of their claims and ‘Operational Creditors’ claim was reached 70 to 80% as noticed by the Adjudicating Authority.

In view of the aforesaid fact, it cannot be alleged that the plan is against the provisions of the ‘I&B Code’.

We find no merit in this Appeal. The Appeal is accordingly dismissed. No costs.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Venugopal M.]
Member (Judicial)

/ns/gc