

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 795 of 2018

IN THE MATTER OF:

Ingen Capital Group LLC.

...Appellant

Vs

Ramkumar S. V. & Anr.

...Respondents

Present:

For Appellant: Present but appearance not marked.

For Respondents: Mr. P. V. Dinesh, Mr. R. S. Lakshman and Mr. Mukund Punny, Advocates for R-1 and R-2.

ORDER

30.04.2019: The 'Ingen Capital Group LLC.' was the Successful Resolution Applicant but it failed to implement its resolution plan as approved by the Committee of Creditors and the Adjudicating Authority. Earlier the Appellant was given opportunity to deposit the upfront amount but they having failed to deposit the same, the following order was passed on 1st February, 2019:-

"ORDER

01.02.2019—Learned Senior Counsel for the Appellant submits that without any information it will not possible to deposit upfront amount pursuant to 'approved resolution plan'. In this circumstance, it is to be considered as to what action required be taken for resolution process as also against the 'Resolution Applicant' whose 'Resolution Plan' after approval do not want to give effect to it and put pre condition when no such pre-condition

was made in the 'Resolution Plan'. Let show cause notice be issued on the Directors of 'Ingen Capital Group LLC.' namely—Mr. Umesh Bhatia and the authorised representative Mr. Harish Bhatia, as to why appropriate action be not taken against them and the National Company Law Tribunal, the Central Government and its agencies be not asked to take appropriate steps against the Company and its Directors and why cost not be imposed on them. Ms. Nishtha Chaturvedi, Advocate accepts notice on behalf of the Mr. Umesh Bhatia and Mr. Harish Bhatia. She is allowed to file reply affidavit within 15 days. Let the Secretary, Ministry of Corporate Affairs, Union of India, New Delhi be also impleaded as party Respondent No. 3 and notice be issued to the Secretary, Ministry of Corporate Affairs, 5th Floor, A-Wing, Shastri Bhawan, New Delhi-110001 along with a copy of this order. Post the case 'for orders' on 1st March, 2019. In the meantime, it is open to the Adjudicating Authority to pass appropriate order after hearing the 'Resolution Professional', the 'Managing Committee' and the 'Committee of Creditors'. If there is a second plan complied with Section 30 (2) and is available, it will be open to the 'Resolution Professional' to place it before the 'Committee of Creditors' and thereafter before the Adjudicating Authority for necessary orders."

2. From the submission made on behalf of the Appellant, it is clear that the Appellant is not in a mood to implement the resolution plan which was approved by the Committee of Creditors and the Adjudicating Authority and because of their failure the resolution process is now again to reopen.

3. In this background, counsel for the Appellant sought permission to withdraw the appeal but instead of allowing the Appellant to withdraw the appeal we are dismissing the appeal having no merit with liberty to the Adjudicating Authority to pass appropriate order and if so required to look into the other plans and approve the same.

4. The Central Government is directed through the Ministry of Corporate Affairs to take appropriate steps against 'Ingen Capital Group LLC.' and its Managing Director and other Directors who tried to take advantage of the resolution process but later on failed to implement its proposal without any basis. If Appellant has no office in India then the Central Government through Ministry of Corporate Affairs may take up the matter with USA, where the Appellant Company is situated.

5. The appeal is dismissed with aforesaid observations and directions with a cost of Rs.10,00,000/- (Rupees Ten Lakhs Only) to be paid by the Appellant in favour of the Committee of Creditors within thirty days.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

am/gc