

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

**Interlocutory Application No.1832 of 2019 in
Company Appeal (AT) (Insolvency) No. 344 of 2019**

IN THE MATTER OF:

Janmejaya Mahapatra Appellant

Vs

Flsmidth Private Limited & Ors. Respondents

Present:

**For Appellant: Mr. Abhijeet Sinha, Ms. Sreenita Ghosh,
Arjun Asthana, Mr. Saikat Sarkar and Ms.
Shivani Kachwaha, Advocates.**

**For Respondents: Mr. K.V. Balakrishnan and Mr. Rahul Kumar
Sharma, Advocates for Respondent No.1.**

**Mr. Raju Ramachandran, Senior Advocate
with Ms. Charu Bansal, Advocates for Axis
Bank - Respondent No.4.**

ORDER

07.08.2019 The learned Counsel for the Appellant submits that the Appellant intends to settle the claim with the creditors. Mr. Raju Ramachandran, learned Senior Counsel appearing on behalf of Axis Bank, Member of the 'Committee of Creditors' submits that against the dues of about Rs.5000 crores or more, they have provided a revised offer of Rs.1900 crores, which cannot be accepted. Learned Counsel for the Appellant prays for some more time to settle the matter.

In the circumstances, we allow the Appellant to take steps to settle the matter by 19th August, 2019 with all the 'Financial Creditors', 'Operational Creditors' and other lenders, so as to enable the 'Resolution Professional' to place the matter before the 'Committee of Creditors' for taking up a call under Section 12A of the Insolvency and Bankruptcy Code, 2016 (for short 'I&B Code'). If it is approved with 90% of voting shares by the 'Committee of Creditors', it will be open to the Applicant ('Operational Creditor') to withdraw the application under Section 9 in terms of the provisions of the I&B Code. If

such fresh proposal is given by the Appellant for taking up the matter under Section 12A with the 'Committee of Creditors', it will consider the same in accordance with law, preferably within two weeks from the date of receipt of such proposal, failing which, this Appellate Tribunal will consider the case on merit.

Post the case 'for orders' on **5th September, 2019**.

The interim order of not constituting the 'Committee of Creditors' having already vacated, the interim order allowing the 'Resolution Professional' to keep the company going concern etc. as ordered on 5th April, 2019 shall continue.

[Justice S. J. Mukhopadhaya]
Chairperson

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

[Kanthi Narahari]
Member (Technical)

Ash/GC