

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 490 of 2018

IN THE MATTER OF:

S. Sriharan

...Appellant

Vs.

Malabar Hotels Pvt. Ltd. & Anr.

...Respondents

Present: For Appellant:- Mr. S. Aravindan, Advocate.

**For Respondents:- Mr. Sumant Batra, Mr. Mahesh Agarwal, Ms. Aastha Mehta and Ms. Srishti Kapoor, Advocates.
Mr. Nirav Shah, Advocate for Successful Resolution Applicant.**

ORDER

28.08.2018- This appeal has been preferred by the Appellant, Promoter and Shareholder of 'Malabar Hotels Pvt. Ltd.'- ('Corporate Debtor') against order dated 3rd August, 2018 passed by the Adjudicating Authority (National Company Law Tribunal), Division Bench, Chennai, whereby and whereunder, the application preferred by the Appellant under sub-section (5) of Section 60 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "I&B Code") has been rejected.

2. Learned counsel appearing on behalf of the Appellant submitted that the Appellant sought for various information from the 'Resolution Professional' with regard to 'Resolution Plan' which has been approved.

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Such details were required to find out as to what amount has been allocated to the Appellant and if it is not in accordance with law then to challenge the 'Resolution Plan'.

3. Learned counsel appearing on behalf of the 'Resolution Professional' submitted that the Appellant being the promoter was present all the time in the meeting of the 'Committee of Creditors' and 'Resolution Plan' was discussed in those meeting, therefore, he had all the knowledge. The 'Resolution Plan' was approved by the 'Committee of Creditors' on 20th June, 2018 but it was not challenged by the Appellant. Now, when the matter is pending before the Adjudicating Authority for approval under Section 31, the Appellant intends to challenge the same.

4. Learned counsel appearing on behalf of the 'Resolution Professional' further submitted that the 'Resolution Plan' has taken care of all the stakeholders, including the Shareholders and the equity of the shareholders has been protected by issuing preferential share(s) in favour of the shareholders redeemable within six years. In the event, the 'Resolution Applicant' fails to pay the redeemable amount after six years, then it is stipulated that additional equity shares of 2.75% of the current amount will be issued in favour of the shareholders.

5. Having heard learned counsel for the parties and taking into consideration the fact that the 'Resolution Plan' has taken care of the shareholders, we are not inclined to grant any relief in favour of the Appellant.

6. The appeal is accordingly dismissed. No cost.

(Justice S.J. Mukhopadhaya)
Chairperson

(Justice Bansi Lal Bhat)
Member(Judicial)

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