

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 513 of 2020**

**IN THE MATTER OF:**

**Prashant Properties Pvt. Ltd.**

**...Appellant**

**Versus**

**Vijaykumar V. Iyer**

**RP of the Corporate Debtor & Ors.**

**...Respondents**

**Present:**

**For Appellant: Mr. Dhruba Mukherjee and Mr. Kumar Anurag Singh, Advocates.**

**For Respondents: Mr. Anup Kumar, Advocate.**

**ORDER**  
**(Through Virtual Mode)**

**05.06.2020** The Adjudicating Authority (National Company Law Tribunal), Kolkata Bench, Kolkata rejected claims made by the Appellant – 'M/s Prashant Properties Pvt. Ltd.' on the ground that the Resolution Plan had already been approved on 08.04.2019 by the Adjudicating Authority, which had no power to review its own decision. This rejection order, which is part of the composite order passed by the Adjudicating Authority in CP(IB)No. 595/KB/2017 on 26.02.2020, has been assailed by the Appellant through the medium of instant appeal.

2. Appellant claimed that it was entitled to use the brand 'Elegant' and 'Family of Marks' as holder of the same. It sought intervention by filing of CA No. 124/KB/2020 in CA(IB) No. 937/KB/2018 which had been pending determination before the Adjudicating Authority. The Adjudicating Authority declined to draw an adverse conclusion on the basis of report of the Resolution

Professional and the Forensic Consultant against the management of the Corporate Debtor though permitted User Agreement was not cancelled while approving the Resolution Plan. The Adjudicating Authority, apart from holding that it was not a case of undervalued or preferential transaction, held that the application preferred by the Appellant was not maintainable as the Adjudicating Authority had no jurisdiction to determine any issue relating to the Resolution Plan after the same had been approved.

3. Learned counsel for the Appellant submits that the finding recorded by the Adjudicating Authority is erroneous in-as-much-as the public notice dated 18.04.2019 issued by the Resolution Professional prior to decision in CA(IB) No.937/KB/2018 was without jurisdiction and right to use of trademark 'Elegant' based on the approved Resolution Plan has not passed on to the Successful Resolution Applicant. This submission is contested by learned counsel for the Respondent who submits that after approval of the Resolution Plan the Adjudicating Authority had become *functus officio* and the decision qua approval of the Resolution Plan could not be reviewed by it.

4. After hearing learned counsel for the parties and wading through the record, we are of the considered opinion that the Appellant who was an Operational Creditor could not seek intervention after approval of Resolution Plan by the Adjudicating Authority. Admittedly, the Resolution Plan was approved by the Adjudicating Authority on 08.04.2019 and in terms of provision embodied in Section 31(1) of the I&B Code the approved Resolution Plan is binding on all stakeholders involved in the Resolution Plan including

the 'Creditors'. It is not in dispute that approved Resolution Plan has not been assailed by the Appellant in appeal under Section 61 of the I&B Code and limitation for filing such appeal has already expired. Thus, the approved Resolution Plan has attained finality and is beyond the pale of challenge at the instance of Appellant – 'Operational Creditor'. It also emerges from the record that the Appellant had all along been represented throughout the Corporate Insolvency Resolution Process proceedings as a creditor and it could not lie in his mouth that the proceedings qua the validity or otherwise of the permitted User Agreement of the brand name were conducted behind its back. If at all there were any apprehensions in the mind of the Appellant, same have been allayed by the Adjudicating Authority by observing in Para 33 of the impugned order that decision as regards plea of Resolution Professional on there being an undervalued transaction does not have any bearing on the applicability of this Agreement in future in either way.

5. Thus viewed, we find no merit in this appeal. The same is dismissed. No costs.

**[Justice Bansi Lal Bhat]  
Acting Chairperson**

**[Justice Anant Bijay Singh]  
Member (Judicial)**

**[Dr. Ashok Kumar Mishra]  
Member (Technical)**

*am/gc*