

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI**  
**Company Appeal(AT)(Insolvency) No. 699 of 2019**

**IN THE MATTER OF:**

**Rahul Aneja** **...Appellant**

**Vs**

**Sushant Aneja & Anr.** **....Respondents**

**Present:**

**For Appellant: Mr. Sumit Shukla, Advocate**

**For Respondents: Mr. Bharat Arora and Mr. Shivam Thapak,  
Advocates**

**ORDER**

**16.01.2020** Heard learned Counsel for the Appellant and Respondents. It appears that there was a Corporate Insolvency Resolution Process (in short CIRP) initiated by the Respondent Nos. 1 & 2 against the Corporate Debtor- J.D. Aneja Edibles Pvt. Ltd. and during the period of CIRP, the Appellant along with his wife in consortium tendered Resolution Plan as the Corporate Debtor is a Micro, Small and Medium Enterprises (in short MSME). The Plan came up to be approved by the Impugned Order and in paragraph-27 of the Impugned Order, the Adjudicating Authority (NCLT, Jaipur Bench), Jaipur observed that Committee of Creditors took into consideration all the aspects and had taken a commercial decision in view of the Resolution Plan. In the final operative part of the Impugned Order (paragraph-31 of the Impugned Order) while approving Resolution Plan directed in sub para (i) as under:

“31. ...

- (i) *That the dissenting FC even though a related party shall be paid the principal amount due and as agreed before*

*this Tribunal by the Resolution applicant before payment is made to the equity shareholders as contemplated under the resolution plan.”*

2. The present appeal has been filed by the Appellant being aggrieved by this sub-paragraph (i) of paragraph-31 of the Impugned Order. In the Appeal in paragraph-13, the Appellant claims that the Resolution Applicant never agreed before the learned Tribunal for such amendment in the Resolution Plan. Learned Counsel submits that because of the above amendment directed by the Adjudicating Authority, the Plan has become unviable and thus, this Appeal was required to be filed.

3. We are prima facie of the view that after a direction has been given by the Adjudicating Authority, on the basis of statement made, concerned party cannot back out to get relief in Appeal. Before us the Appellant is trying to say that the Appellant- Resolution Applicant never agreed to such modification. We find that it would be appropriate that the Appellant first moves the Tribunal for clarification if the Appellant claims that there is a typographical error or some other error has crept in.

4. We dispose of the present Appeal with liberty to the Appellant to file a clarification application before the Adjudicating Authority with regard to the above paragraph-31(i) of the Impugned Order. After the Adjudicating Authority passes order with regard to the clarification in the application, the Appellant would be at liberty to challenge the present Impugned Order along with order as may be passed in the clarification application.

5. Parties to appear before the Adjudicating Authority on 31<sup>st</sup> January 2020, by which date Appellant should file the clarification Application.

Appeal is disposed accordingly.

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

(Kanthi Narahari)  
Member(Technical)

*Akc/GC*