

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

**Company Appeal (AT) (Insolvency) Nos. 121 & 122 of 2018**

**IN THE MATTER OF:**

**Deepak Singhania** **...Appellant**

**Versus**

**LML Ltd. & Ors.** **...Respondents**

**Present:**

**For Appellant :** **Mr. M.L. Lahoty, Mr. Arvind Kr. Gupta and  
Ms. Henna George, Advocates**

**For 1<sup>st</sup> Respondent:** **Mr. Saurabh Kalia, Advocate**

**For 2<sup>nd</sup> Respondent :** **Mr. Devendra Singh and Ms. Karishma Jaiswal,  
Company Secretary**

**For 3<sup>rd</sup>, 4<sup>th</sup> & 7<sup>th</sup>  
Respondent :** **Mr. P.V. Dinesh and Mr. Rajendra Beniwal,  
Advocates**

**For 5<sup>th</sup> Respondent** **Mr. Ashish Rana, Advocate**

**For 6<sup>th</sup> Respondent** **Mr. Nikhil Mishra, Advocate**

**For 9<sup>th</sup> Respondent** **Mr. Navneet Gupta, Advocate**

**For 12<sup>th</sup> Respondent:** **Mr. R.P. Agarwal and Mr. Sunny Verma, Advocates**

**WITH**

**Company Appeal (AT) (Insolvency) No. 131 of 2018**

**IN THE MATTER OF:**

**Anil Goel (Resolution Professional)** **...Appellant**

**Versus**

**LML Ltd.** **...Respondent**

**Present:**

**For Appellant :** Ms. Varsha Banerjee, Mr. Milan Singh Negi and  
Mr. Tarun Mehta, Advocates

**WITH**

**Company Appeal (AT) (Insolvency) No. 154 of 2018**

**IN THE MATTER OF:**

**Sanjeev Shriya** ...Appellant

**Versus**

**LML Ltd. & Ors.** ...Respondents

**Present:**

**For Appellant :** Mr. Anirudh Wadhwa, Mr. Akash Jauhari,  
Mr. Anandana H. Wadhwa and Mr. Vipul Kumar,  
Advocates

**For 1<sup>st</sup> Respondent:** Mr. Saurabh Kalia, Advocate

**For 2<sup>nd</sup> Respondent :** Mr. Syed Sarfaroze Karim, Advocate

**For 3<sup>rd</sup>, 4<sup>th</sup> & 11<sup>th</sup>  
Respondent :** Mr. P.V. Dinesh and Mr. Rajendra Beniwal,  
Advocates

**For 4<sup>th</sup> Respondent** Mr. Surekh Baxi, Advocate

**For 5<sup>th</sup> Respondent :** Mr. Devendra Singh, Advocate

**For 6<sup>th</sup> Respondent :** Mr. Nikhil Mishra, Advocate

**For 9<sup>th</sup> Respondent:** Mr. Navneet Gupta, Advocate

**ORDER**

**12.07.2018** On 5<sup>th</sup> April, 2018 when the matter was taken up, the following submission made on behalf of the learned Senior Counsel is as follows:

*“Learned counsel for the appellant(s) submits that in terms of settlement between the ‘Financial Creditors’ and the ‘Corporate Debtors’ (at pages 82 to 111) a sum of Rs. 99.61 Crores was payable. In the ‘Information Memorandum’ (at pages 174 onwards), though higher amount has been shown, has been admitted by the Resolution Professional in Note 7 below the said ‘Information Memorandum’ (page 181). According to him, Section 5 of the ‘Sick Industrial Companies (Special Provisions) Repeal Act, 2003’ protects the settlement already reached between the ‘Financial Creditor and the ‘Corporate Debtor’ and therefore, the ‘Financial Creditor’ cannot claim any amount beyond the settlement. The Resolution Applicant though offered higher amount of Rs. 240 Crores against due amount of Rs. 99.61 Crores but the ‘Committee of Creditors’ (CoC) rejected the same on presumption that they are entitle to claim Rs. 341 Crores. It is submitted that the CoC by majority vote of 75% can approve or reject a Resolution Plan, but there should not*

*be any arbitrariness and it should be reasonable and as also transparent.”*

2. On hearing the learned counsel for the parties, we find that the appellant is ‘Promoter’, ‘Director’, ‘Shareholder’ and also presently ‘Guarantor’ of the ‘Corporate Debtor’. It is also not in dispute the application filed by the ‘Corporate Debtor’ was under Section 10 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the ‘I&B Code’) and after ‘corporate insolvency resolution professional’, the ‘Committee of Creditors’ having rejected the sole ‘Resolution Plan’ the Adjudicating Authority passed the impugned order dated 23<sup>rd</sup> March, 2018 for liquidation. The argument advanced by the learned Senior Counsel appearing on behalf of the appellant is that the Adjudicating Authority should have given opportunity to call for ‘Resolution Plan’ before passing order of liquidation, may be attractive but the fact remains that the ‘resolution applicant’ whose plan has been rejected has not challenged the rejection. The ‘Promotor’ cannot challenge such rejection as he is not proposed to know as to whether the ‘resolution plan’ was in accordance with Section 30(2) or not. As the ‘resolution applicant’ in this case was barred under Section 29A of the I&B Code, in absence of any detail of the ‘Resolution Applicant’, we cannot deliberate on the issue whether the ‘resolution plan’ was rightly rejected or not that too when the order of rejection is not under challenged.

3. So far as the status of appellant is concerned, he cannot be a ‘resolution applicant’ being ‘Promotor’ and being ineligible under Section 29A. The status of the guarantor will also not be affected as the ‘Corporate Debtor’ is now

undergoing liquidation process. Therefore, we find that no case is made out by the appellant to interfere with the order of liquidation and therefore, we are not going into the facts which were highlighted to decide whether the quantum of amount payable to the 'Financial Creditors' was 99.61 crores or Rs. 341 crores. In absence of any merit, the appeal is dismissed. No cost.

[Justice S.J. Mukhopadhaya]  
Chairperson

[ Justice Bansi Lal Bhat ]  
Member (Judicial)

/ns/sk