

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

**Company Appeal (AT) (Insolvency) No. 274 of 2018**

**IN THE MATTER OF:**

**James Warren Tea Ltd.**

**...Appellant**

**Vs**

**CA Kannan Tiruvengadam, R. P. of  
Assam Company India Ltd.**

**....Respondent**

**Present:**

**For Appellant: Ms. Pooja Mahajan and Ms. Mahima Singh,  
Advocates.**

**For Respondent: Mr. S. N. Mookherjee, Sr. Advocate with Mr.  
Rishav Banerjee, Mr. Jayantika Ganguly and Mr.  
Aditya V. Singh, Advocates.**

**ORDER**

**18.07.2018:** The Appellant, who claims to be one of the Resolution Applicant while challenged the impugned order dated 22<sup>nd</sup> May, 2018 submitted that the Resolution Plan which it intended to submit has not been accepted in view of the eligibility criteria fixed by the Resolution Profession. On 31<sup>st</sup> May, 2018 when notice was issued on Respondent, without prejudice to the rights and contentions of the parties, the Resolution Professional was asked to provide the Appellant with Information Memorandum and Appellant was allowed to file Resolution Plan with observation that the Resolution Professional may scrutinize the same in terms of Section 30(2) of the Insolvency and Bankruptcy Code, 2016 (for short 'I&B Code') and to record reasons, if there is any defect or it the plan is against the provisions of law and to keep the same in a sealed cover. The appellant also agreed on 19<sup>th</sup> June, 2018 to pay Participation Fees of Rs.10/- Lakhs and Earnest Money Deposit of Rs.5/- Crore.

2. Mr. S. N. Mookherjee, learned senior counsel for the Resolution Professional submits that after receipt of Information Memorandum, Appellant submitted its Resolution Plan and also deposited Participation Fees of Rs.10/- Lakhs only. He further submits that the Resolution Plan submitted by Appellant and three others having found without defects in terms of Section 30(2) of I&B Code are kept in sealed cover for placing the matter before the Adjudicating Authority.

3. In view of the fact that time for submission of the Resolution Plan was extended and there are four plans which have been cleared by the Resolution Professional, out of which three plans have already been forwarded to the Committee of Creditors, we allow the Resolution Professional to place the Resolution Plan submitted by the Appellant before the Committee of Creditors, who will take decision in terms of Section 30(4) of the I&B Code after notice to the (suspended) Board of Directors, Representative of Operational Creditors, if their aggregate due is more than ten percent of the debt amount and the Resolution Applicants, whose Resolution plan(s) have been placed for consideration. We make it clear that we have not decided the question as to one or other Resolution Applicant is ineligible in terms of Section 29A of I&B Code or not, which can be looked into by the Committee of Creditors.

4. Taking into consideration the fact that time has been taken for deciding the matter before this Appellate Tribunal as also the Resolution Professional and the Adjudicating Authority, we exclude the period from 31<sup>st</sup> May, 2018 to 18<sup>th</sup> July, 2018 (today) for the purpose of counting the total period of 270 days. The Committee of Creditors may take an early decision and on its approval the Resolution Professional will place the approved plan before the Adjudicating Authority, who is required to pass order in terms of Section 31 of the I&B Code.

5. The Appeal is disposed of with aforesaid observations and directions. No costs.

[Justice S. J. Mukhopadhaya]  
Chairperson

[Justice Bansi Lal Bhat]  
Member (Judicial)

*am/sk*