

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 1112 of 2019

IN THE MATTER OF:

Consolidated Engineering Company **...Appellant**

Vs.

Subodh Kumar Agarwal & Ors. **...Respondents**

**Present: For Appellant: - Mr. Abhijeet Sinha, Mr. Bhavya Sethi
and Mr. Saikat Sarkar, Advocates.**

O R D E R

23.10.2019— Learned counsel for the Appellant submits that the approved 'Resolution Plan' was neither gone through by any of the 'Operational Creditors' nor details thereof discussed by the 'Committee of Creditors' while approving the 'Resolution Plan'.

According to the counsel for the Appellant, 'NIL' amount has been given to all the 'Operational Creditors' except one 'Operational Creditor' and thereby the 'Resolution Applicant' has discriminated between the 'Financial Creditors' and the 'Operational Creditors'.

In the facts and circumstances of the case, as we find that the Adjudicating Authority has not yet approved the 'Resolution Plan', we allow the Appellant to appear before the Adjudicating Authority on the next date. The Adjudicating Authority while considering the 'Resolution Plan' will consider whether the 'Operational Creditors' have been given the same

Contd/-.....

treatment as given to the 'Financial Creditors' or not. If it is discriminatory, it will be open to the Adjudicating Authority to pass appropriate order as per the decision of the Hon'ble Supreme Court in "**Swiss Ribbons Pvt. Ltd. & Anr. vs. Union of India & Ors.— Writ Petition (Civil) No. 99 of 2018**".

The appeal stands disposed of with aforesaid observations and directions. No costs.

(Justice S.J. Mukhopadhaya)
Chairperson

(Justice Venugopal M)
Member(Judicial)

(Justice Jarat Kumar Jain)
Member(Judicial)

Ar/g