

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

**Restoration Application No.01 of 2020 in  
Company Appeal (AT) (Insolvency) No. 308 of 2020**

**IN THE MATTER OF:**

**Praveen Kumar Nanda Kumar**

**...Appellant**

**Versus**

**VSL Securities Pvt. Ltd. & Ors.**

**...Respondents**

**Present:**

**For Appellant: Ms. Shashi Panwar, Advocates.**

**For Respondents: Mr. Haribabu Thota, Resolution Professional (R-3).  
Mr. K. Dushyantha Kumar, Liquidator (R-4)**

**ORDER  
(Through Virtual Mode)**

**09.06.2020** Though we are not convinced that the cause assigned is a sufficient cause warranting restoration of dismissed appeal to file, in view of the circumstances of the case viz. the appeal being preferred against the order of liquidation passed by the Adjudicating Authority we deem it appropriate to allow restoration of appeal to file.

The Appellant claiming to be a Promoter has through the medium of instant appeal assailed order of the Adjudicating Authority (National Company Law Tribunal), Bengaluru Bench dated 8<sup>th</sup> January, 2020 by virtue whereof the Corporate Debtor – ‘M/s Unishire Housing LLP’ has been sent into liquidation. It is submitted by learned counsel for the Appellant that ‘M/s Altico Capital India Ltd.’ also had sought initiation of Corporate Insolvency Resolution Process by preferring of separate application under Section 7 of the I&B Code before the

Adjudicating Authority (National Company Law Tribunal), Bengaluru Bench, which was dismissed on the score that Corporate Insolvency Resolution Process had already been initiated by 'M/s VSL Securities Pvt. Ltd.'. It is further submitted that 'M/s Altico Capital India Ltd.' did not fall within the definition of 'Financial Creditor' and objection in this regard had been raised before the Interim Resolution Professional when claim was filed by 'M/s Altico Capital India Ltd.' before the Interim Resolution Professional. Therefore, it is submitted that the Corporate Insolvency Resolution Process got vitiated and could not culminate in order of liquidation passed by the Adjudicating Authority which has been assailed in this appeal.

After hearing learned counsel for the Appellant and Shri Haribabu Thota, Resolution Professional in person (Respondent No. 3) and Shri K. Dushyantha Kumar, Liquidator in person (Respondent No. 4), we find that the Corporate Insolvency Resolution Process initiated at the instance of the Financial Creditor – 'M/s VSL Securities Pvt. Ltd.', in terms of order of admission dated 31<sup>st</sup> July, 2019 passed by the Adjudicating Authority in CP No. 172 of 2019, culminated in passing of the impugned order dated 8<sup>th</sup> January, 2020, in terms whereof the Corporate Debtor has been sent into liquidation. It further appears that no Resolution Plan was forthcoming within the prescribed timelines as the liquidation cost was not ascertainable and available liquid assets were only of the value of Rs.29,60,000/- whereas total claims received against the

Corporate Debtor were for Rs.2,35,72,27,259/-. The Committee of Creditors finding no other option available recommended initiation of liquidation proceedings by a majority of 70.97%. It is by now settled that, the commercial wisdom of the Committee of Creditors qua the business decision as regard the feasibility and viability of the Resolution Plan cannot be questioned before the Adjudicating Authority or even before this Appellate Tribunal. Likewise, the decision of the Committee of Creditors recommending liquidation of the Corporate Debtor after proper evaluation of the assets and liabilities of Corporate Debtor with no Resolution Plan forthcoming would be a business decision falling within the domain of commercial wisdom of the Committee of Creditors which is not amenable to judicial review. Admittedly, the Corporate Insolvency Resolution Process period has expired and the order of admission on application under Section 7 culminating in passing of impugned order of liquidation has not been assailed by the Appellant. Since, the Corporate Insolvency Resolution Process is over and all actions taken in such process go unassailed, we find no merit in the instant appeal. The appeal is accordingly dismissed.

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

**[Justice Jarat Kumar Jain]  
Member (Judicial)**

**[Ms. Shreeshha Merla]  
Member (Technical)**

*am/gc*

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