

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency)No.1397 of 2019

IN THE MATTER OF:

Rai Bahadur Shreeram & Company Pvt. Ltd.Appellant

Vs.

Ferro Alloys Corporation Ltd. & Anr.Respondents

Present :

For Appellant: Mr. Rajiv Ranjan, Senior Advocate, Mr. Sumesh Dhawan, Ms. Vatsala Kak, Ms. Geetika Sharma, Advocates

For Respondents: Ms. Misha, Advocate

Ms. Charu Bansal, Advocate

O R D E R

03.12.2019 - The 'Plan' is pending for approval. The Appellant, the Promoter raised objection about the inclusion of subsidiary Company of the 'Corporate Debtor' request that 'Resolution Plan' and inclusion of experience to run such subsidiary Company.

The Adjudicating Authority ('National Company Law Tribunal') Cuttack Bench before which 'Corporate Insolvency Resolution Process' of 'Ferro Alloys Corporation Ltd.' is pending, by impugned order dated 18th October, 2019 made the following observations, in regard to entertaining of the application at the stage while matter relating to approval of plan is still pending: -

contd.

*“8. In view of the above, we are inclined to dismiss this application. This Adjudicating Authority does not want to comment about the RFRP at this stage. The decision of the COC in respect of the Resolution Plan is purely **commercial in nature**; hence, it is not appropriate for this Adjudicating Authority to make any observation at this stage, which might have a bearing on the CIRP. Moreover, IBC does not provide any provisions for orders in respect of the day to day process of the CIRP. Any comment or observation at this stage regarding RFRP shall have a bearing on the Corporate Insolvency Resolution Process. Hence, we restrain ourselves from making any observation of the same.”*

We have heard Mr. Rajiv Ranjan, Senior Advocate and Mr. Sumesh Dhawan, learned counsel for the Appellant, Ms. Misha, learned counsel appearing on behalf of ‘Resolution Professional’ and being satisfied condone delay of 8 days. IA stands disposed of. However, we are also not inclined to

....contd.

express ourselves at this stage as all the questions raised by the Appellant qua one or other Plan and the Adjudicating Authority will consider the matter relating to approval of Plan u/s 31 of the 'I&B' Code.

The Appellant is also allowed to raise such objection by filing a specific affidavit within a week. Advance objection be filed before the Adjudicating Authority immediately.

The Appeal stands disposed of with aforesaid liberty.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

[Justice Venugopal M.]
Member (Judicial)

ss/sk