

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI**  
**Company Appeal (AT) (Insolvency) No. 536 of 2020**

**IN THE MATTER OF:**

**A. Sennimalai & Anr.**

**...Appellants**

**Versus**

**Tourism Finance Corporation  
of India Ltd. & Anr.**

**...Respondents**

**Present:**

**For Appellants :**

**Mr. Angad Mehta, Advocate**

**For Respondents :**

**Mr. Sanjay Bajaj, Advocate for R-1**

**Mr. Mukesh Kr. Gupta, IRP in person**

**Mr. Brijesh Kumar Tamber, Advocate for Indian  
Bank, State Bank of India and IDBI**

**ORDER**

**(Through Virtual Mode)**

**10.06.2020** Heard Mr. Angad Mehta, learned counsel representing the Appellant, Mr. Sanjay Bajaj, Advocate representing Respondent No. 1, Mr. Mukesh Kr. Gupta, Interim Resolution Professional in person and Mr. Brijesh Kumar Tamber, Advocate for Indian Bank, State Bank of India and IDBI who have not been arrayed as Respondents in this appeal but are the creditors who have filed their claims before the 'Interim Resolution Professional'.

After hearing the learned counsel for the Appellant and going through the records, we find that the factum of 'financial debt' due and payable by the 'Corporate Debtor' to the 'Financial Creditors' is not disputed. As regards, the issue of default, it is not in controversy that the remedy available under the 'Master Restructuring Agreement' does not in any manner impact the right of the 'Financial Creditors' to claim the debt. In other words, we mean to convey that the 'Master Restructuring Agreement' does not in any manner curtail the exercise of right by 'financial creditors' in enforcing their claims under the 'I&B Code'. Mr. Angad Mehta, Advocate representing the Appellant fairly conceded

that no dispute can be raised as regards the 'financial debt' being due and payable and default having occurred in discharge of the liability in terms of 'Master Restructuring Agreement' by virtue of which payment was due on 31<sup>st</sup> March, 2019. In view of this fact situation, we are of the considered opinion that there is no merit in the appeal.

Mr. Mehta, Advocate representing the Appellant submits that the Appellant is making endeavours to raise funds for satisfying the claims of all 'Financial Creditors' which would necessitate sale of the assets and since 'Committee of Creditors' is yet to be constituted, an opportunity may be granted to the Appellant to settle the dues of 'Financial Creditors'.

Having regard to the observations made hereinabove and keeping in view the prayer of the Appellant, we dispose of this appeal with the observations that it shall be open to the Appellant to place the plan for satisfying the claims of the 'financial creditors', before the creditors and explore all legally permissible ways of exit from the insolvency process. Needless to say that 'corporate insolvency resolution process' will continue.

The appeal stands disposed off accordingly.

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

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

**[ Shreesha Merla ]  
Member (Technical)**

/ns/rr/