

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) Nos. 288 & 289 of 2018

IN THE MATTER OF:

V. Navaneetha Krishnan

...Appellant

Versus

**Central Bank of India, Coimbatore
& Another**

...Respondents

Present:

**For Appellant : Mr. S. Santanam Swaminadhan and Ms. Nishtha
Khurana, Advocates**

**For 1st Respondent: Mr. Rajiv S. Roy, Mr. Avrojyoti Chatterjee,
Ms. Jayasree Saha and Mr. Prateek Kushwaha,
Advocates**

For 2nd Respondent : Mr. C. Ramasubramaniam, R.P.

O R D E R

09.08.2018 The grievance of the appellant is that though a 'resolution plan' was submitted by him but without giving any opportunity to the appellant, the 'Committee of Creditors' decided to request the Adjudicating Authority for liquidation.

2. Mr. C. Ramasubramaniam, 'Resolution Professional'/'Liquidator' submits that an information-memorandum was prepared but no 'resolution plan' was submitted within the time. The appellant submitted the 'Resolution Plan' on 178th day i.e. just two days prior to completion of 180 days. For the said reason, the application was moved before the Adjudicating Authority for 'liquidation' of the 'corporate debtor'.

3. Mr. Rajiv S. Roy, learned counsel appearing on behalf of the Central bank of India submits that the 'resolution plan' was submitted through one of the Director but this fact has been disputed by the learned counsel for the appellant.

4. Taking into consideration the fact that the 'resolution plan' was submitted on 178th day and on the next day i.e. 179th day the 'Committee of Creditors' decided to go for liquidation as 180th day was to be completed and order under Section 31 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the 'I&B Code') was required to be passed and in absence of any good reason for extension of time, we are not inclined to grant any relief.

5. However, in view of Section 12A even during the liquidation period if any person, not barred under Section 29A, satisfy the demand of 'Committee of Creditors' then such person may move before the Adjudicating Authority by giving offer which may be considered by the 'Committee of Creditors', and if by 90% voting share of the 'committee of creditors', accept the offer and decide for withdrawal of the application under Section 7 of the I&B Code, the observation as made above or the order of liquidation passed by the Adjudicating Authority will not come in the way of Adjudicating Authority to pass appropriate order. Both the appeals are dismissed with aforesaid observations. No cost.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

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