

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 775 of 2018

IN THE MATTER OF:

State Bank of India & anr.

...Appellants

Versus

Ajay Agarwal & Ors.

...Respondents

Company Appeal (AT) (Insolvency) No. 776 of 2018

IN THE MATTER OF:

State Bank of India & anr.

...Appellants

Versus

**Mr. Venakataramanarao Nagarajan,
Resolution Professional & Anr.**

...Respondents

Present:

**For Appellant (s) : Mr. Om Prakash, Senior Advocate assisted by
 Mr. M. Anbalagan and Ms. Madhusmita Bora,
 Advocates**

ORDER

13.12.2018 These appeals have been preferred by ‘State Bank of India’ (Financial Creditors) and another against the order dated 9th November, 2018 passed by the Adjudicating Authority (National Company Law Tribunal), Single Bench, Chennai whereby the application filed by the appellant(s) on behalf of ‘committee of creditors’ to remove Mr. V. Nagarajan, ‘Resolution Professional’ has been rejected and order of liquidation has been passed u/s 33(1)(a)/34(1) of the Insolvency and Bankruptcy Code, 2016 (‘I&B Code’ for short)

Learned counsel appearing on behalf of the appellant(s) submitted that ‘committee of creditors’ by 100% majority votes decided to remove Mr. Mr. V.

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Nagarajan, 'Resolution Professional' but in spite of the same miscellaneous application preferred by the 'committee of creditors' have been rejected and the application preferred by Mr. V. Nagarajan, Resolution Professional for liquidation has been approved.

From the record we have heard the learned Counsel for the appellant and perused the record.

We find that no 'resolution plan' was approved by the 'committee of creditors' and in the meantime 270 days having lapsed on 5th of September, 2018, the 'Resolution Professional' filed a miscellaneous application for liquidation, which is accepted and order of liquidation has been passed. On such order, as the 'committee of creditors' ceased to exist and become functus officio even if we set aside the impugned order dated 31st October, 2018 and remove Mr. V. Nagarajan, the order of liquidation cannot be declare illegal as more than 270 days having passed. For the reason aforesaid no relief can be granted. The appeal is dismissed. No cost.

However, this order passed by the Appellate Tribunal does not mean that we have given a finding relating to performance or activity of Mr. V. Nagarajan, Resolution Professional/liquidator in which is for the IBBI to decide pursuant to complaints made against him, uninfluenced by this order.

[Justice S.J. Mukhopadhaya]
Chairperson

[JusticeBansi Lal Bhat]
Member(Judicial)

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