

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 1169 of 2019

IN THE MATTER OF:

State Bank of India & Anr.

...Appellants

Versus

M/s. Scotts Garments Ltd. & Ors.

...Respondents

Present:

For Appellants : Mr. C.A. Sinha and Ms. Sonali Khanna, Advocates

O R D E R

11.11.2019 The ‘State Bank of India and Another (Financial Creditors) filed an Interlocutory Application under Section 21(3) read with Section 24(6) and (7) and Sections 52 and 53 of the ‘Insolvency and Bankruptcy Code, 2016 for setting aside the proceedings dated 24th July, 2019 passed by the ‘Resolution Professional’ for accepting the ‘revised resolution plan’ passed for the ‘Scotts Garments Ltd.’ and ‘Linen Art Pvt. Ltd.’, which was circulated on 28th July, 2019. The Adjudicating Authority (National Company Law Tribunal), Bengaluru Bench by impugned order dated 16th September, 2019 rejected the same while taken into consideration that the ‘Financial Creditors’ have approved the ‘revised resolution plan’ with 75.4% voting share.

2. On hearing the Learned counsel for the Appellant and on perusal of the record, we are of the opinion that the application under Section 21(3) or Section 24(6) and (7) were not maintainable for any direction on the ‘Resolution Professional’ or for setting aside the order passed by the ‘Resolution Professional’ nor such application under Section 52 or 53 of the ‘I&B Code’. As the order of

‘Liquidation’ has not been passed, at best the application could have been filed under Section 60(5) of the ‘I&B Code’, which has not filed. Therefore, on the technical ground the application was not maintainable and we also reject it.

On merits, we also not found any ground to interfere with the impugned order as the ‘resolution plan’ has already been approved and the same has already been challenged by the Appellant in other Company Appeal i.e. ‘*Company Appeal (AT) (Insolvency) No. 1106 of 2019*’.

For the reasons aforesaid, though we condone the delay of 7 days in preferring the Appeal but dismiss this appeal. However, dismissal of the Appeal will not come in the way of the ‘State Bank of India’ to raise all the issues in ‘*Company Appeal (AT) (Insolvency) No. 1106 of 2019*.’

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Venugopal M.]
Member (Judicial)

[Justice Jarat Kumar Jain]
Member (Judicial)

/ns/sk