

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Ins) No.281 of 2020

IN THE MATTER OF:

Bank of India

...Appellant

Versus

**Royal Splendour Developers Pvt. Ltd.
Through the Resolution Professional
Ms. Kavitha Surana & Ors.**

...Respondents

For Appellant: Counsel appeared but did not mark appearance

For Respondents: None

O R D E R

17.02.2020 Heard Counsel for the Appellant. It is stated that the Committee of Creditors (COC) in the Corporate Insolvency Resolution Process (CIRP) against Royal Splendour Developers Pvt. Ltd. has approved the Resolution Plan which has been approved by the Adjudicating Authority (National Company Law Tribunal, Division Bench, Chennai). The plan was approved by majority of more than 70.93%. The learned Counsel states that the Appellant Bank was in minority having 24.97% voting share and at the time of voting on the Resolution Plan, it had voted against the Resolution Plan, copy of which is at Annexure – E (Page 133) and sought liquidation in place of resolution.

The Counsel states that the Appellant is ready to go with the Plan but the objection of the Appellant is that the Resolution Plan does not provide and is silent as to what is to be done with securities held by the bank, in case the Successful Resolution Applicant (SRA) fails to complete the project. It is stated that the Plan should have this modification.

On being asked, the learned Counsel for the Appellant does not show us that any such proposal was made at the time of meeting of COC. Apart

from this, keeping in view Judgement of the Hon'ble Supreme Court of India in the matter of **“Committee of Creditors of Essar Steel India Limited Vs. Satish Kumar Gupta & Ors.”** (Civil Appeal No.8766-67 of 2019), this Tribunal has limited jurisdiction to interfere in the commercial decision taken by the Committee of Creditors with requisite majority. Hon'ble Supreme Court has observed that there is no residual jurisdiction not to approve a resolution plan on the ground that it is unfair or unjust to a class of creditors, so long as the interest of each class has been looked into and taken care of. (See Para – 58 of the Judgement.) We do not think that Appellant can ask us to get included speculative provision so as what to do if SRA fails to complete the project.

Keeping in view the limited scope, we do not find that the present Appeal makes out a case to interfere. There is no substance in the Appeal.

Admission is declined. The Appeal is accordingly disposed.

[Justice A.I.S. Cheema]
Member (Judicial)

(Justice A.B. Singh)
Member (Judicial)

[Kanthi Narahari]
Member (Technical)

/rs/md