

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI
Company Appeal (AT) (Insolvency) No. 475 of 2020

In the matter of:

NBCC (India) Ltd.

....Appellant

Vs

ICICI Bank Ltd. & Ors.

....Respondents

Present

For Appellant: **Mr. Prateek Kumar, Mr. Siddharth Srivastava and
Mr. Mohit Kishore, Advocates.**

For Respondents: **Ms. Misha and Ms. Mahima Sareen, Advocates for
Respondent No.1 – ICICI Bank Ltd.**

**Mr. Sumant Batra, Advocate for Respondent No.4 -
IRP.**

**Mr. Bishwajit Dubey, Advocate for Respondent No.5
– IDBI Bank.**

ORDER

22.04.2020 The Appellant – NBCC (India) Ltd., which has emerged as the Successful Resolution Applicant in ‘Corporate Insolvency Resolution Process’ initiated against Jaypee Infratech Ltd. (JIL) is aggrieved of modifications made by the learned Adjudicating Authority in the ‘Resolution Plan’ submitted by it and as approved by the ‘Committee of Creditors’ to the extent it allows objections of ICICI Bank Ltd. and Yamuna Expressway Industrial Development Authority and directs payment to unclaimed Fixed Deposit Holders. It is submitted that the learned Adjudicating Authority could not intercede the business decision of the ‘Committee of Creditors’ taken by the prescribed voting shares and the learned Adjudicating Authority exceeded its jurisdiction in making such modifications.

Issue notice to the Respondents through Speed Post in the main appeal as well as in the Interim Application.

On behalf of ICICI Bank Ltd., Ms. Misha, learned Counsel accepts notice. On behalf of Respondent No.4 – Interim Resolution Professional, Mr. Sumant Batra, learned Counsel accepts notice. On behalf of Respondent No.5 – IDBI Bank, Mr. Bidhwajit Dubey, learned Counsel accepts Notice. No further notice be served upon these Respondents. The above Respondents may file their reply affidavits within two weeks. Rejoinders, if any be filed within one week thereof.

Let notice be served upon Respondent Nos.2 and 3. Requisites along with process fee be filed within three days. If the Appellant provides email addresses of the Respondents, let service be effected through email also.

Mr. Sumant Batra, learned Counsel representing the ‘Resolution Professional’ intends to file an Appeal in regard to some observations made in paragraph 103 of the impugned order.

We are told that the implementation of the ‘Successful Resolution Plan’ would involve participation of the ‘Successful Resolution Applicant’, i.e. NBCC (India) Ltd. as also the three major Institutional Financial Creditors, who are Members of the ‘Committee of Creditors’ i.e., IDBI Bank Ltd., IIFCL and LIC.

Meanwhile, till further orders, the approved ‘Resolution Plan’ may be implemented subject to outcome of this Appeal. The Interim Resolution Professional may constitute ‘Interim Monitoring Committee’ comprising of the ‘Successful Resolution Applicant’, i.e., the Appellant and the three major Institutional Financial Creditors, who were Members of the ‘Committee of Creditors’ as named above.

Mr. Sumant Batra, learned Counsel submits that as of now he is continuing and managing the affairs of the ‘Corporate Debtor’. The Resolution Professional, who would be constituent of the ‘Interim Monitoring Committee’ shall continue to be paid as may be deemed reasonable by the ‘Interim Monitoring Committee’ from the date of this order. If any fee is outstanding for the past services rendered by the Resolution Professional during the ‘Corporate

Insolvency Resolution Process', the same shall be paid as per the decision of the 'Committee of Creditors'. These directions will last till the disposal of this Appeal.

List the matter for 'admission after notice' on **15th May, 2020**.

[Justice Bansi Lal Bhat]
Acting Chairperson

[Justice Anant Bijay Singh]
Member (Judicial)

Ash/MD