

NATIONAL COMPANY LAW APPELLATE TRIBUNAL,

PRINCIPAL BENCH, NEW DELHI

Comp. App. (AT) (Ins.) No. 1089 of 2023

& I.A. No. 3762 of 2023

In the matter of:

Sanjeev Azad

....Appellant

Vs.

Desh Deepak

...Respondents

Resolution Professional in Matter of Ria Construction

Ltd. & Ors.

For Appellant: Mr. Pulkit Deora, Mr. Harsh Gurbani, Advocates.

For Respondents:

ORDER

18.09.2023: **I.A. No. 3762 of 2023:-** There is a delay of 8 days in filing the Appeal. Cause shown sufficient to condone the delay. IA No.3762 of 2023 is disposed of.

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2. This Appeal has been filed against the order dated 29.05.2023 passed by the Adjudicating Authority deciding IA No.1371 of 2022 filed by the Appellant as well as certain other IAs. Appellant who claim to be the promoter of the Corporate Debtor has submitted a Resolution Plan which plan was not approved by the CoC as Appellant held to be ineligible. Appellant has already filed an IA No.877 of 2019 to declare the Appellant's eligibility which was rejected on 22.01.2020. The said order has not been challenged have become final. The Application IA No.1371 of 2022 was filed by the Appellant praying for setting aside the decision of the CoC dated 03.09.2019. The CoC in its meeting dated 03.09.2019 has approved the proposal for liquidation of the Corporate Debtor.

3. Learned Counsel for the Appellant submits that the Application for liquidation is still pending and no final order has been passed directing for liquidation. It is submitted that the Appellant has become ineligible after 22.01.2020, hence, his non-consideration of the plan on the ground of ineligibility is erroneous.

4. We have considered the submissions of the Appellant and perused the record.

5. Appellant's Application to declare the Appellant's eligibility having been already rejected on 22.01.2020, we see no error in the decision of the CoC in 10th meeting held on 03.09.2019 that Appellant is not eligible since his plan is disapproved for 94% of CoC. Adjudicating Authority has given adequate reasons for rejecting IA No.1371 of 2022 filed by the Appellant.

6. Learned Counsel for the Appellant lastly contended that the Resolution Professional be not appointed by the Liquidator.

7. Appointment of Liquidator has not yet taken place. It is always open for the Appellant to make his objection before the Adjudicating Authority. The Appeal is dismissed, accordingly.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

Anjali/nn