

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI

Company Appeal (AT) (Ins) No. 950 of 2023

IN THE MATTER OF:

Shyam Kishan Saraf & Anr.

...Appellants

Vs.

Atul Kumar

Resolution Professional of Universal

Buildwell Pvt. Ltd. & Anr.

...Respondents

Present:

For Appellant: Mr. Shyam Kishan Saraf, in person

For Respondent: Mr. Swapnil Gupta, Mr. Ahmar, Advocates

ORDER

26.07.2023: Heard Mr. Shyam Kishan Saraf who appears in person and filed this Appeal challenging the order of Adjudicating Authority dated 07.06.2023 by which IA No. 2988/2023 has been rejected. IA No. 2988/2023 has been filed by the Appellant with following prayers: -

a) Decide CA 1500/2019, CA 1501/2019

and IA 3089/2021 before deciding IA

5003/2021 for Approval of Modified Resolution Plan.

b) Remand back the whole resolution plan to

be considered afresh by the CoC.

c) Direct the RP to release the

amended/correct IM (last 2 years audited balance

sheet and proper detail of assets to be included in IM) as per Section 29(1) of IBC,2016.

d) Direct the RP to provide the altered Information Memorandum to the Applicants in which Claim of the Applicants are also factored in, before the final disposal of application for approval of Modified Resolution Plan in the interest of justice and to for a just and fair decision.

e) Direct the RP to provide the Applicants seat in CoC after admitting the claim of Applicants as per Form C filed with RP.

f) Direct the RP to provide the Applicants with complete IA 5003/2021 so that the Applicants can also raise any other objections against the illegality in the modified Resolution Plan against Section 30(2) of IBC, 2016.

g) Decide all IA's and objections of Aggrieved Applicants before IA 5003/2021 filed for approval of modified Resolution Plan so that requisite changes can be made in Information Memorandum and Final Modified Resolution Plan.

h) Order proper Forensic Audit to be conducted before taking any decision on IA 5003/2021 filed for approval of Resolution Plan, so that all the fraudulent/preferential transactions could be identified and accordingly reversed, to recover the assets lost by CD in irregular transactions in light of fraud/overselling admitted by RP to the tune of approx. 150-170 crores.

i) Pass any other order which may be deemed fit and proper in light of the facts and circumstances of the present case and in the interest of justice.”

2. Learned Counsel for Respondent submits that CA 1500/2019 and CA 1501/2019 has been reserved on 13.07.2023. The prayer of the Appellant to remand back the whole Resolution Plan to be considered afresh by the CoC cannot be considered and decided in the application filed by the Appellant. The question of approval of the plan is still pending before the Adjudicating Authority and it is for the Adjudicating Authority to consider all issues at that time.

3. We are of the view that application filed by the Applicant is rightly rejected. The prayers made in the application could not be allowed as prayed.

4. Learned Counsel for Respondent submits that Applicant has been filing several application and obstructing the proceedings before the Adjudicating Authority. We, thus, are of the view that there is no merit in the Appeal, ***the appeal is dismissed.***

[Justice Ashok Bhushan]
Chairperson

[Mr. Barun Mitra]
Member (Technical)

ss/nn