

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Ins.) No. 1020 of 2022

IN THE MATTER OF:

ABB India Ltd.

....Appellant

Vs.

Shailesh Verma

....Respondents

**Resolution Professional of South East U.P. Power
Transmission Company Ltd. & Ors.**

Present:

**For Appellant: Mr. Deepak Biswas, Mr. Harshit Gupta, Advocates.
Ms. Jagriti Dosi, Advocate for Intervenor in I.A. No.
4188 of 2022.**

**For Respondents: Mr. Manmeet Singh, Mr. Anugrah Robin Frey,
Mr. Manav Sharma, Advocates for R-1/RP.
Mr. Arvind Nayar, Sr. Advocate, Ms. Vanita
Bhargava, Ms. Wamika Trehan, Ms. Maithili
Moondra, Mr. Akshay Joshi, Advocates for R-2.
Mr. Ramakant Rai, Mr. Yashish Chandra, Mr. Varun
Kr. Tikmani and Ms. Swati, Advocates for R-3.**

O R D E R

21.07.2023: I.A. No. 4188 of 2022:- This application has been filed by the 'Isolux Corsan India' for impleadment. This applicant has already filed an appeal challenging the order dated 15.06.2022 which has been dismissed as barred by time which order has also been upheld by Hon'ble Supreme Court.

We are of the view that application for impleadment/ intervention as prayed by the Applicant cannot be allowed, I.A. No. 4188 of 2022 is rejected.

Company Appeal (AT) (Ins.) No. 1020 of 2022:- This appeal has been filed by the appellant, who had filed a claim as Operational Creditor before the Resolution Professional, challenging the order dated 15.06.2022 by which order the Resolution Plan of the Corporate Debtor has been approved. The CIRP commenced by order dated 16.07.2020 and thereafter appellant filed a claim under Form-B of Rs. 286,86,05,909/-. The Resolution Professional rejected the claim and communicated on 19.11.2020 that claim of the appellant is notionally admitted for Rs. 1 only.

2. An I.A. was filed by the appellant on 08.01.2021 being I.A. No. 102 of 2022 before the Adjudicating Authority which I.A. could be registered only on 01.04.2022. The application filed for approval of resolution plan being I.A. No. 79/2022 was earlier reserved on 29.03.2022 and thereafter, after some clarification was again reserved on 13.04.2022.

3. Learned Counsel for the appellant challenging the order contends that the application which was filed by the appellant being I.A. No. 102 of 2022 was kept pending and the appellant's entire claim was liable to be accepted which was wrongly rejected by Resolution Professional and in view of the aforesaid approval of the plan is bad in law.

4. Learned Counsel appearing for the Successful Resolution Applicant refuting the submission of the appellant contends that appellant himself was not vigilant in prosecuting his application, the application although filed on 08.01.2021 could be registered only on 01.04.2022 when the plan approval

was reserved. It is submitted that several hearing was done in the plan approval application and on none of the date appellant appeared or objected to the approval of the resolution plan.

5. It is further submitted that in any view of the matter appellant has filed his claim as an Operational Creditor and under the Resolution Plan Operational Creditor has not been allocated any amount and given the nil amount, the Appellant who claimed to be Operational Creditor cannot be better situated. It is also further submitted that plan which was approved on 15.06.2022 stands implemented.

6. Learned Counsel for the Resolution Professional has also supported the submissions of the SRA and submits that there is no error in the plan approval order dated 15.06.2022 and Resolution Professional has not admitted the claim since it could not be verified from the materials brought on the record.

7. We have considered the submissions of the parties and perused the record.

8. The application which was filed by the appellant before the Adjudicating Authority being I.A. No. 102/2022 was registered only on 01.04.2022 when plan approval application was heard and reserved on 29.03.2022. The appellant has not prosecuted his application vigilantly so that it could have been decided before the approval of the plan.

9. There is another reason, due to which on the submissions of the appellant we do not find any infirmity in the plan approval order i.e. appellant

at best is an Operational Creditor and in the plan which has been approved by the Adjudicating Authority, Operational Creditor has been allocated nil amount. Thus, no relief can be granted to the appellant even for the argument sake claim of the appellant is treated to be accepted.

10. We, thus, are of the view that plan approval order dated 15.06.2022 which is challenged in this appeal need no interference. Plan having been approved, any claim of the appellant against the Corporate Debtor including SRA stand extinguished, however, if the appellant has any claim with regard to his entitlement against any other party, he is at liberty to pursue the said claim in accordance with law.

11. With these observations, appeal is dismissed.

[Justice Ashok Bhushan]
Chairperson

[Mr. Barun Mitra]
Member (Technical)

sa/nn