

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI**

Company Appeal (AT) (Insolvency) No. 1364 of 2024

In the matter of:

Encore Asset Reconstruction Company Pvt. Ltd.

....Appellant

Vs.

Prajakta Menzes & Anr.

...Respondents

For Appellant

Mr. Sudhir Makkar, Sr. Advocate with Mr. Abhinav Hansaria, Ms. Saumya Gupta, Advocates.

For Respondents

Ms. Prajakta Menezes, Mr. Aditya Kumar, Ms. Ila Nath, Advocates for R1.

ORDER

(Hybrid Mode)

19.07.2024: Heard Learned Counsel for the Appellant.

2. This Appeal has been filed against the order dated 07.06.2024 passed by the Adjudicating Authority (National Company Law Tribunal) Mumbai Bench, Court-IV by which application was filed for seeking appointment of AAA Insolvency Professionals LLP as the Resolution Professional in place of Ms. Prajakta Menezes, IRP. The CoC on 14.05.2024 has resolved to change the RP on the basis of which the application was filed. Adjudicating Authority noticed the fact that one Mr. Anil Goel who is promoter and Chairperson of AAA LLP IP has been suspended, hence, Adjudicating Authority directed the CoC to re-examine the issue of appointment of RP. Aggrieved by this order, this Appeal has been filed.

3. Counsel for the Appellant submits that there was no error in decision taken on 14.05.2024, hence, the Adjudicating Authority ought to have

approved the same. The Adjudicating Authority in paragraph 6 has noted following:-

“6. At the time of hearing, Mr. Nausher Kohli, Ld. Counsel for the Financial Creditor (he is not a party nor intervenor in this application) who are having a 38.07% voting share in CoC brought to our knowledge that the firm AAA LLP IP is not eligible for appointment since the IBBI has on 16.05.2024 suspended the registration of Mr. Anil Goel who is Promoter and Chairperson (holding 97% share of LLP) and also the authorised signatory who has signed the consent Form AA on behalf of the LLP. Hence, the Ld. Counsel for the Financial Creditor vehemently opposed for appointing him as a RP.”

4. The Adjudicating Authority ultimately in paragraph 8 has issued following directions:-

“8. This Bench considered the submissions made by the Ld. Counsel for Financial Creditors. We cannot ignore the facts submitted by Counsel for the Financial Creditor that the registration of Mr. Anil Goel has been cancelled by IBBI. In view of the changed circumstances subsequent to holding of CoC meeting on 14.05.2024, we are of the considered view that the CoC may re-examine the issue of appointment of RP.”

5. The directions are only to re-examine the issue of appointment of RP which cannot be said in any way to prejudice the case of the Appellant. It is open for the CoC to re-examine and take appropriate action thereafter in accordance with law.

6. With these observations, the Appeal is dismissed.

**[Justice Ashok Bhushan]
Chairperson**

**[Barun Mitra]
Member (Technical)**

**[Arun Baroka]
Member (Technical)**

Anjali/nn