

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

Company Appeal (AT) (Insolvency) No.830 of 2023

IN THE MATTER OF:

Ganesh Ores Pvt. Ltd.

...Appellant

Versus

Vijaykumar V. Iyer & Anr.

...Respondents

Present:

For Appellant: Mr. P. Nagesh, Sr. Advocate with Mr. Dhananjay Bhaskar Ray, Mr. Shouryaditya, Mr. Akshay Sharma, Advocates.

For Respondent: Mr. Rajesh Kumar Gautam, Mr. Anant Gautam, Ms. Anani Achumi, Advocates for CoC

Mr. Sumesh Dhawan, Mr. Abhijeet Sinha, Ms. Akanksha Kaushik, Mr. Saikat Sarkar, Advocates for R2.

ORDER

24.08.2023: Heard learned counsel for the Appellant. This Appeal has been filed against the order dated 20.03.2023 by which the application filed by the Appellant being I.A. No. 273/CB/2022, where Appellant made following prayer, has been rejected:

“A. Pass an order declaring that the impugned distribution mechanism is illegal and arbitrary;

B. Pass an order directing the respondent to put issue before the Committee of Creditors for reconsideration;

C. Pass an order directing the said distribution mechanism must be finalised considering all the points raised by the applicant in the present application;”

Cont'd.../

2. Shri P. Nagesh, learned counsel for the Appellant submits that in the 16th CoC meeting the Appellant was offered Rs.4.56 Crores and in the 17th CoC meeting again offer to the Appellant was more than what it has been offered. In the 18th CoC meeting held on 23.09.2022, now, the Appellant has been given Rs.5.23 Crores. It is submitted that the plan was also approved in 18th CoC meeting held on 23.09.2022 and Appellant also assented to the Plan. It is submitted that the Appellant has also raised objection regarding the distribution and voted against the distribution mechanism.

3. We have considered the submissions of learned counsel for the parties and perused the record.

4. In the 18th CoC meeting held on 23.09.2022, the plan was approved by the CoC and the distribution mechanism was also taken in the consideration for deliberation by the CoC. Distribution Mechanism was also approved, in which the Appellant was given Rs.5.23 Crores in the plan of Indrani Pattnaik. In the meeting of the CoC, plan as well as distribution mechanism being approved, allocation to Appellant has to be given effect to. Appellant although claims to have raised objection to the distribution mechanism but the plan having been approved which plan stipulate distribution mechanism by the CoC, distribution mechanism has to be accepted as decided in 18th CoC meeting and whatever amount has been allocated to the Appellant, Appellant cannot be heard against same.

5. Learned counsel for the Appellant submits that the distribution is unjust as unsecured creditors has been allocated less amount than secured creditors. We are of the view that there can be difference in payment to the secured and unsecured creditors in the plan approved as per the commercial wisdom of the CoC. We do not find any merit in the Appeal. Appeal is dismissed.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

Archana/nn