

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
AT CHENNAI

(APPELLATE JURISDICTION)

Company Appeal (AT) (CH) (Ins) No.135/2023
(IA Nos.452 & 803/2023)

In the matter of:

Malay Bhadra

Deputy Commissioner of Income-tax, Corporate Circle - 2(1), Kochi

Central Revenue Building, 3rd Floor, I S Press Road,

Kochi-682 018

... Appellant

V

Mr. CA Jasin Jose

RP/Monitoring Agent of

M/s. Orma Marble Palace Private Limited

5D, Skyline Riverscape,

Thottumugham, Aluva,

Kerala-683 101.

...Respondent No.1

Dr. K. V. Tolins

Successful Resolution Applicant

of the Corporate Debtor having

registered office at,

Kalamparambil House Kalady P.O,

Kalady, Ernakulam Dist.,

Kerala-683574.

...Respondent No2

Present :

For Appellant : Mr. P. Rajkumar Jhabakh, Advocate

For Respondents : Mr. Akhil Suresh, Advocate

For Mr. G. Hari Kumar, Advocate for R1

Mr. T.K. Bhaskar, Advocate for

Mr. Pranav Gopalkrishnan, Advocate, For R2

ORDER
(Hybrid Mode)

08.11.2024:

The Appellant in the instant Company Appeal challenges the Impugned Order dated 23.12.2022, as it has been passed by the Hon'ble NCLT, Kochi Bench in I.A. (IBC)/152(KOB)/2022 in IBA/41/KOB/2020 which was arising out of the matters of Orma Marble Palace Private Limited. The Impugned Order under challenge is an order, by virtue of which the Ld. Adjudicating Authority while carrying the proceedings under Regulation 39(4) of IBBI (Regulation Process for Corporate Persons) Regulations, 2016, and Section 31 of IBC 2016, had proceeded to approve the Resolution Plan.

Though not on record, the Respondents Counsel has submitted that, the Appeal at the behest of the Appellant would not be maintainable, as he had filed a claim before the Resolution Professional and the same stood rejected by an order dated 18.04.2022. It is an admitted case of the Appellant that the order of rejection of claim of the Appellant, has attained finality, as it has not been subject to challenge before any superior forum.

That means the appellant has been determined as to be an unsuccessful Applicant/Claimant. It is a settled law that where an Applicant/Claimant whose claim has been rejected, has not challenged the said rejection, he would not be

having any locus to put a challenge to the order of approval of Resolution Plan and thus the appeal at the behest of the Appellant, challenging the order of approval of Resolution Plan submitted by the 2nd Respondent would not be maintainable.

For the aforesaid reason, the Company Appeal would stand dismissed holding it to be not maintainable. The pending Interlocutory Applications, if any, would too stand closed.

[Justice Sharad Kumar Sharma]
Member (Judicial)

[Jatindranath Swain]
Member (Technical)

GL / TM / MS