

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
AT CHENNAI

(APPELLATE JURISDICTION)

Company Appeal (AT) (CH) (Ins) No.405/2024
(IA Nos.1103,1104/2024)

In the matter of:

Binjusaria Ispat Pvt Ltd.

...Appellant

V

Maruti Venkata Subba Rao Poluri

RP of Abhirama Steels Ltd.

...Respondents

Present :

For Appellant : Mr. Om Prakash, Senior Advocate &

Mr. Amir Bavani, Advocate

ORDER

(Hybrid Mode)

14.11.2024:

The solitary ground as it has been argued by the Ld. counsel for the Appellant, while putting a challenge to the Impugned Order dated 17.09.2024 as passed in **IA No.1180/2024**, rendered in IA (IBC) (PLAN) 10/2024, in CP (IB) No.525/9/HDB/2019, had been that, compliance of the provisions under Section 24 (3)(c) was not done and issue of notice under Section 24(3)(c) of I & B Code 2016, was not done on the premise that it would not adversely affect, the interest of the Appellant, who was the Operational Creditor.

However, on the contrary, the compliance of the aforesaid provision has been held to be mandatory and prior issue of notices is required, in accordance with, the Judgment of the Hon'ble Apex Court as rendered in the matters of Greater Noida Industrial Development Authority Versus Prabhjit Singh Soni & Anr. In the judgment thus rendered by the Hon'ble Apex Court dated 12.02.2024 the following view has been expressed by the Hon'ble Apex Court in para 55 which is extracted hereunder:

“55. As we have found that neither NCLT nor NCLAT while deciding the application /appeal of the appellant took note of the fact that, (a) the appellant had not been served notice of the meeting of the COC; (b) the entire proceedings up to the stage of approval of the resolution plan were ex parte to the appellant; (c) the appellant had submitted its claim, and was a secured creditor by operation of law, yet the resolution plan projected the appellant as one who did not submit its claim; and (d) the resolution plan did not meet all the parameters laid down in sub-section (2) of Section 30 of the IBC read with Regulations 37 and 38 of the CIRP Regulations, 2016, we are of the considered view that the appeals of the appellant are entitled to be allowed and are accordingly allowed. The impugned order dated 24.11.2022 is set aside. The order dated 04.08.2020 passed by the NCLT approving the resolution plan is set aside. The resolution plan shall be

sent back to the COC for re-submission after satisfying the parameters set out by the Code as exposted above. There shall be no order as to costs”.

In view of the mandatory requirement of issuance of notice under Section 24(3)(c) of IBC, to the present Appellant, the Impugned Order itself and the Resolution Plan cannot be permitted to be proceeded further.

Issue notices to the Respondents. The appellant would take steps to serve notice on the Respondents on their E-mail address as well as, on their WhatsApp number. Apart from that, he will also serve notice on the Respondent by the Registered Post. In view of what has been observed above and owing to the principle laid down by the Hon’ble Apex Court, the effect of operation on the Impugned Order dated 17.09.2024 would be kept in abeyance till the next date of listing.

List this Company Appeal on **16.01.2025**.

[Justice Sharad Kumar Sharma]
Member (Judicial)

[Jatindranath Swain]
Member (Technical)

GL/TM/MS