

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 1852 of 2024

IN THE MATTER OF:

**Board of Trustees for Shyama Prasad Mookerjee Port
Kolkata**

...Appellant

Versus

Brighterside Renewable Energy Ventures Pvt Ltd.

...Respondent

Present:

For Appellant : Mr. Mukul Rohatgi, Sr. Advocate, Mr. Buddy Ranganadhan, Mr. Siddhant Jaiswal, Advocates.

For Respondent : Mr. Shashwat Anand, Mr. Shashwat Parihar, Mr. Deepanshu Badiwal, Mr. Rishabh Kumar, Advocates.

ORDER
(Hybrid Mode)

21.11.2024: Heard Shri Rohatgi, learned counsel for the Appellant and learned counsel appearing for the Respondent. This Appeal has been filed against order dated 12.08.2024 by which IA No.890/KB/2021 filed by the Appellant - Board of Trustees for Shyama Prasad Mookerjee Port Kolkata has been rejected.

2. CIRP against the Corporate Debtor – Manor Floatel Ltd. commenced and concluded by approval of the Resolution Plan on 30.10.2018. In the resolution process, the Appellant did not file any claim. After approval of the plan, in the year 2021, IA No.890/KB/2021 was filed praying for recall of the order dated 30.10.2018, which application has been rejected by the impugned order.

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3. Shri Rohatgi, learned counsel for the Appellant submit that the plan contains provisions which are contrary to the law and could not have been approved by virtue of Section 30(2) of the IBC. It is submitted the by the plan lease has been granted in perpetuity. He further submits that the Adjudicating Authority ought to have entertained the application and given opportunity to the Appellant to raise all contentions.

4. Learned counsel for the Respondent submits that plan approval was also not challenged by the Appellant within the time and application was filed in the year 2021 after three years and issues with regard to plan approval cannot be allowed to be raised by the Appellant while considering application for recall of order which was virtually an application for review of plan approval order.

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

6. The plan approval dated 30.10.2018 was never put in question by filing an appeal by the Appellant and the said order cannot be allowed to be challenged on merits in this appeal. The limited scope of challenge is to the order rejecting recall of order on the grounds mentioned in the application. The Adjudicating Authority after considering the submissions took the view that there was no ground to allow the recall application filed by the Appellant. We concur with the view of the Adjudicating Authority in dismissing the application for recall filed by the Appellant. In so far as the submission which

are raised by the Appellant, we are of the view that no opinion can be expressed in this proceeding. Any issue with regard to implementation of the plan are the questions which need to be raised by the concerned parties before the Adjudicating Authority in accordance with law. With these observations, the appeal is dismissed.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

[Arun Baroka]
Member (Technical)

Archana/nn