

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

**Company Appeal (AT) (Ins.) No.1633 of 2023
& I.A. No. 5895, 5896 of 2023**

IN THE MATTER OF:

**Committee of Creditors
Through Its Represe Tative Jaga Ath Kar** **...Appellant**

Versus

**Anil Tayal
Resolution Professional of Horizon Buildcon Pvt. Ltd.** **...Respondent**

Present:

For Appellant: Mr. Aditya Nayyar, Advocate.

**For Respondents: Mr. Abhishek Anand and Ms. Jasleen Singh
Sandha, Advocates for RP.**

**ORDER
(Hybrid Mode)**

16.02.2024: **I.A. No. 5896 of 2023:** This is an application praying for condonation of 13 days' delay in filing the Appeal. The ground taken in the affidavit is that renovation work was going on in the office of the counsel for the Appellant due to which file got misplaced and the Authorized Representative could not sign the appeal as he was in Rajasthan for some personal exigencies. Cause shown sufficient, delay is condoned. I.A. No.5896 of 2023 is disposed of.

2. Heard learned counsel for the Appellant and learned counsel for the Resolution Professional. This Appeal has been filed against the order dated 25.07.2023 passed by the NCLT, New Delhi, Court-III in I.A. No.1993 of 2023.

Cont'd.../

The Application was filed by the Appellant praying for following reliefs in I.A. No.1993 of 2023:

- “a) Reject the valuation report obtained by the RP from its valuers and direct him to consider the valuation reports dated 21.12.2022 given by Mr. Anil Kumar Saxena and Ms. Aditi Aggarwal; or in the alternative;*
- b) Appoint a fresh valuer to ascertain a fair value and liquidation value of the assets of Group Housing Society Known as IRIDIA in the matter of M/s Horizon Buildcon Pvt. Ltd.;*
- c) Pass any other or further orders/directions as this Hon’ble Tribunal may deem fit and appropriate in the present circumstances of the matter and in the interest of justice.”*

3. The Adjudicating Authority noticing the fact that Committee of Creditor has already approved the Resolution on 06.10.2022 has rejected the application. The Adjudicating Authority further observed that the application filed by a set of homebuyers has not been filed through Authorised Representative. Aggrieved by which order this appeal has been filed.

4. Learned counsel for the Appellant submit that the observation of the Adjudicating Authority that application filed by a set of homebuyers has not been filed through Authorised Representative is incorrect. It is submitted that the application was authorised by the homebuyers and earlier

Authorised Representative has withdrawn themselves, hence, the application was fully maintainable.

5. We are of the view that the said observation made by the Adjudicating Authority that application is not filed by Authorised person is not correct and we proceed on the assumption that Appellant were authorised representative of the homebuyers in the present case.

6. The Resolution Professional in the CIRP proceedings, appointed two valuers under Section 35 of the CIRP Regulations and the two valuers have submitted their valuation reports. There being difference of more than 10% in the valuation of two valuers, a third valuer was appointed. After completion of the valuation exercise, resolution plan was placed before the CoC for consideration. The CoC approved the Resolution Plan and application has already been filed by the Resolution Professional for approval of the plan before the Adjudicating Authority.

7. Learned counsel for the Appellant submits that Appellant in 12th and 13th meeting of the CoC has raised issued of valuation. Learned counsel for the Appellant has referred to the 'C', Item 2 and 3 (page 90 of paper book). The question with regard to valuation report was placed before the CoC and deliberated and reply of the Resolution Professional who was Chairman of the CoC was also noticed in the meeting of the CoC.

8. Learned counsel for the Appellant submits that valuation is at higher side which shall affect the homebuyers. Valuation has been obtained as per

Regulations and Resolution Plan has been already approved, we, thus, are of the view that the Adjudicating Authority did not commit any error in rejecting the application filed by the Appellant.

9. Learned counsel for the Respondent has relied on judgment of Hon'ble Supreme Court in ***“Ramkrishna Forgings Limited vs. Ravindra Loonkar, Resolution Professional of ACIL Ltd. & Anr., Civil Appeal No.1527 of 2022”*** decided on 21.11.2023. In the said case, after approval of the Resolution Plan question of valuation was sought to be raised and the Adjudicating Authority has directed for valuation, which order was set aside by the Hon'ble Supreme Court. The said judgment fully supports the submission of learned counsel for the Respondent.

10. We, thus, are of the view that no error has been committed by the Adjudicating Authority in rejecting application filed by the Appellant. Appeal is dismissed.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

Archana/nn