

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL,  
PRINCIPAL BENCH, NEW DELHI  
Company Appeal (AT) (Insolvency) No. 135 of 2021**

**In the matter of:**

**Mr. Manoharlal Mehta & Ors.**

**....Appellants**

**Vs.**

**Anil Vrijdas Rajkotia, Resolution Professional of K K  
Welding Ltd.**

**....Respondent**

**Present:**

**Appellants: Ms. Anne Mathew, Advocate.**

**Respondent:**

**ORDER**

**(Through Virtual Mode)**

**01.03.2021:** The Adjudicating Authority (National Company Law Tribunal), Court-1, Mumbai Bench, has in terms of the impugned order dated 7<sup>th</sup> January, 2021 accepted the application of Resolution Professional under Section 33 of the Insolvency and Bankruptcy Code, 2016 ("I&B Code" for short) and sent the Corporate Debtor into liquidation. This is assailed in appeal on the ground that the opportunity of hearing was not provided to Appellants and the Rules of Natural Justice were observed in breach.

2. After hearing learned counsel for the Appellants and going through the records, we find that during Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor, no Expression of Interest (EoI) was received and the Committee of Creditors (COC) in its meeting held on 3<sup>rd</sup> September, 2020, passed the Resolution for the liquidation of the Corporate Debtor. In absence of any EoI being filed and no Resolution Applicant coming forward with a viable and feasible Resolution Plan, no option was left with either the COC or the Adjudicating Authority but to send the Corporate Debtor into liquidation.

Contd/-.....

That apart, the Resolution of COC in regard to sending of Corporate Debtor into liquidation is not amenable to judicial review. The explanation to Section 33(2) by Act No. 26 of 2019 enforced w.e.f. 16<sup>th</sup> August, 2019 sufficiently makes it clear that the COC is empowered to take decision to liquidate the Corporate Debtor any time after its constitution and before the confirmation of Resolution Plan which, in plain terms, gives a pre-eminent position to the COC in taking such business decision in exercise of their commercial wisdom even when a Resolution Plan duly approved by it with requisite vote share is pending before the Adjudicating Authority for approval.

In view of the same, it should not lie in the mouth of the Appellant that it was not given an opportunity of being heard, more so when the Corporate Debtor was contesting the matter and duly represented.

We find no merit in this appeal. The same is dismissed.

**[Justice Bansi Lal Bhat]**  
**Acting Chairperson**

**[Dr. Ashok Kumar Mishra]**  
**Member (Technical)**

**AR/g**