

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 289 of 2021

IN THE MATTER OF:

Shailja Nagar

...Appellant

Versus

Canara Bank & Anr.

...Respondents

Present:

For Appellant: Mr. Nakul Mohta and Mr. Lalit Mohan, Advocates.

For Respondents: Mr. Hitesh Sachar, Advocate for R-1.

Ms. Prachie Jain, Advocate for R-2.

ORDER
(Through Virtual Mode)

07.04.2021: Appellant is aggrieved of admission of application of Financial Creditor – ‘Canara Bank’ filed under Section 7 of the I&B Code in terms of impugned order dated 22nd March, 2021 passed by the Adjudicating Authority (National Company Law Tribunal) New Delhi Bench (Court-II). The ground urged in appeal is that it is a Home-buyers project and the Corporate Debtor has submitted an OTS proposal which was pending consideration before the Financial Creditor when the impugned order came to be passed.

2. After hearing learned counsel for the Appellant we find a letter of Financial Creditor at page 44 of the appeal paper book. It is dated 11th March, 2021 and reads that the competent authority has not considered the proposal of Corporate

Cont'd..../

Debtor favourably. At page 45A, there is letter dated 30th March, 2021 which informs the Corporate Debtor that its improved OTS proposal has been considered and some terms have been formulated for compliance by the Corporate Debtor which include amount of Rs.37.80 Crores as OTS amount of which Rs.3.78 Crores was required to be deposited alongwith the OTS proposal and 3.15% of OTS amount to be paid within 7 days from conveying sanction. There are other terms and conditions also made in the letter in regard to the balance amount. This appears to be a development subsequent to passing of the impugned order.

3. If the Corporate Debtor is serious about accepting the terms set by the Financial Creditor with reference to the minimum amount acceptable under the OTS proposal and the mode of payment, it is for it to take steps for a settlement being reached and acted upon. The exit route is available for the Corporate Debtor within the Corporate Insolvency Resolution Process mechanism. However, the ground urged cannot be a ground to set aside the impugned order which is not shown to be suffering from any legal infirmity. The appeal is accordingly dismissed. However, it shall not be a bar for the Appellant to seek remedy before the Adjudicating Authority.

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

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

am/gc

Company Appeal (AT) (Insolvency) No. 289 of 2021