

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
Company Appeal (AT) (Insolvency) No. 145 of 2021**

In the matter of:

Dr. Krishan Mohan Mendiratta

....Appellant

Vs.

State Bank of India & Anr.

....Respondents

Present:

Appellant: Mr. Vivek Virmani, Advocates.

**Respondents: Mr. PBA Srinivasan, Mr. Parth Tandon, Mr. Avinash Mohopatra, Advocates for R1.
Mr. Sumesh Dhawan, Ms. Vatsala Kak, Ms. Geetika Sharma, Advocates for Resolution Applicant.
Mr. Ashok Kr. Juneja (R2 in person)**

ORDER

(Through Virtual Mode)

16.03.2021: This appeal preferred by Dr. Krishan Mohan Mendiratta claiming to be the member of the Suspended Board of Directors of the Corporate Debtor against the impugned order dated 13th January, 2021 passed by the Adjudicating Authority (National Company Law Tribunal), New Delhi, Principal Bench, by virtue whereof Appellant's application to consider the offer of Rs.32 Crores made by the Unsuccessful Resolution Applicant namely— Dr. Rajendar Singh as against the Resolution Plan already approved for a value of Rs.30.10 Crores came to be dismissed at the hands of the Adjudicating Authority on the ground that the Appellant is not the Unsuccessful Resolution Applicant and the procedure adopted by the Committee of Creditors (COC) in conducting the bidding process has not been assailed as being violative of the codal provisions.

Contd/-.....

2. The only ground urged in this appeal is that the Adjudicating Authority failed to appreciate the fact that the COC did not consider the Resolution Plan of higher value submitted by Dr. Rajendar Singh viz. Rs.32 Crores and approved the Resolution Plan of Successful Resolution Applicant having value of Rs.30.10 Crores.

3. Mr. Vivek Virmani, Advocate claiming to be appearing as proxy counsel for Appellant on behalf of Mr. Sumit Virmani, Advocate who is stated to be suffering from back pain and unable to attend the hearing, prays for adjournment.

4. Mr. Parth Tandon, Advocate appearing on behalf of Respondent No.1 and Mr. Ashok Kr. Juneja, Respondent No.2 appearing in person submit that the Appellant himself was not in the fray and did not participate in the bidding process. It is submitted that the Appellant was espousing the cause of Unsuccessful Resolution Applicant- Dr. Rajendar Singh whose Resolution Plan, despite being of a higher value, was not found viable and feasible by the COC.

5. After hearing learned counsel for the parties, we are of the view that since the Appellant himself was not in the fray and as a member of the suspended Board of Directors was ineligible to submit a Resolution Plan, he could not be permitted to espouse cause of Unsuccessful Resolution Applicant thereby trying to meddle with the affairs of the Corporate Insolvency Resolution Process (CIRP) when the law forbids it to participate in such process. That apart, the Resolution Plan of the Successful Resolution Applicant has already been approved by the COC and is pending approval before the Adjudicating Authority. The Appellant having no locus and being ineligible to participate in the CIRP besides having no legal authority to espouse the cause, if any, of the Unsuccessful Resolution Applicant, cannot maintain the instant appeal. The Appellant is an alien who cannot enter the ring and participate in the CIRP Proceedings.

The appeal is accordingly dismissed for being not maintainable.

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

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

AR/g