

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI
Company Appeal (AT) (Insolvency) Nos. 985-986 of 2020

In the matter of:

Gururaj S Kulkakarni & Ors.

....Appellants

Vs.

Gujarat NRE Coke Ltd.

In Liquidation Through Liquidator Mr. Sumit Binani

....Respondent

Present:

Appellants: Mr. Jayant Mehta, Mr. Dhruv Gupta and Mr. Vivek Gupta, Advocates.

Respondent: Mr. Sumit Binani (Liquidator), Mr. Arjun Asthana and Mr. Krishnaraj Thaker, Advocates.

ORDER

(Through Virtual Mode)

19.11.2020: The impugned order dated 9th June, 2020 dismissing the application of the representatives of the employees of the Company, 'Gujarat NRE Coke Limited' (Corporate Debtor) to reconsider the Scheme of Compromise and Arrangement under Section 230 of the Companies Act, 2013, proposed by the Shareholders along with the 'TEV Study' with further consequential relief, has been assailed on the ground that 'TEV Study' has not been considered and the Adjudicating Authority (National Company Law Tribunal), Kolkata Bench, Kolkata has not taken into consideration the proposition of law that the liquidation is the last resort and all efforts have to be made to revive the Company.

2. After hearing learned counsel for the Appellant, we find that the Corporate Debtor is under liquidation since 11th January, 2018. The Scheme of Compromise and Arrangement for revival of the Corporate Debtor (Company) has been rejected by the secured creditors.

Contd/-.....

3. Admittedly, 90 days' limit from the date of the order of liquidation has elapsed. Now after lapse of more than two years, the Adjudicating Authority has declined to reconsider the Scheme on the same grounds as were taken earlier for approval of the Scheme. The revised Scheme placed by Shareholders before the Creditors has been rejected. It is noticed from the impugned order that the creditors have objected to the addition of 'TEV Study'. It goes without saying that the Scheme of Compromise sought to be reconsidered on the basis of 'TEV Study' could not be forced upon the stakeholders who were unwilling to consider the same even after addition of 'TEV Study'. Thus, no change in circumstances warranting reconsideration at the hands of the Adjudicating Authority was made out and the Adjudicating Authority was right in dismissing the application.

The appeal is accordingly dismissed. No costs.

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

**[Justice Anant Bijay Singh]
Member (Judicial)**

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

AR/g