

LEGAL UPDATES

NCLAT: QUASHED NCLT-ORDER APPROVING TWIN STAR'S RESOLUTION PLAN FOR VIDEOCON GROUP, REMITS THE MATTER FOR COC'S RECONSIDERATION

In the appeal filed by 3 Dissenting Financial Creditors of Vedanta Group, namely IFCI Ltd, SIDBI, and Bank of Maharashtra, appellants raised the issue that the decision taken by NCLT does not comply with Sec. 30(2)(b) of IBC, thus the approval of this Resolution Plan is in violation of Sec. 31 of the Code. The bench comprised of - Dr. Ashok K Mishra (Member - Technical) and Justice Jarat K Jain (Member - Judicial). The Appellants claimed that: a) the resolution procedure was contradictory to the IBC provisions and CIRP Regulations, b) NCLT should have paid attention that the Appellants have not been paid less than the amount to be paid, as per Sec. 53(1) meaning which the paid amount should be more than the liquidation amount, c) present Resolution plan of Vedanta Group would put them even in the worst situation than liquidation. NCLAT noted that the present Resolution Plan is offering a haircut up to 95% to the creditors, i.e., a small amount of Rs. 2900 Cr. for a liability of Rs. 65000 Cr. against Rs. 71,433 Cr. The tribunal remarked that only 5% of the claim of creditors is settled and the total waiver is more than Rs. 62000 Cr. The plan is clearing the dues of dissenting creditors via Equities and NCD that are not permitted as per Code. NCLAT has drawn strength from the Supreme Court judgments that the commercial discretion of CoC is unjustifiable. It completely lies in the domain of CoC specifically if later it would be in the public interest and the loss that the public exchequer has to suffer with an unusual haircut, on such a large employment fund. In support of this, the proposal could be sent to CoC, in view of their own official statement to reconsider their decision. Thus, it was concluded that CoC is no longer in office for approval of the Resolution Plan, jurisprudence clearly established that NCLAT and Adjudicating Authority can send the Resolution Plan back to CoC for Reconsideration. NCLAT quashed the order passed by NCLT approving the Resolution plan of Vedanta Group Co. – Twin Star Technology for 13 Videocon Group Companies. In support of this action of NCLAT, the approval given by the Adjudicating Authority and Committee of Creditors (CoC) was kept aside and the entire matter was given

in the hands of the CoC to complete the procedure related to the Corporate Insolvency Resolution Process (CIRP) as per outlines of the Code.