

In the matter of Maharashtra Seamless Limited Vs. Padmanabhan Venkatesh & Ors.

The Hon'ble Supreme Court vide its order dated 22.01.2020 has held that there is no requirement under the Insolvency and Bankruptcy Code, 2016 that the resolution plan should match the liquidation value of the corporate debtor. The Hon'ble Apex court heard the appeal in the above matter against the ruling of the Hon'ble NCLAT – which held that the successful resolution applicant needs to modify the Resolution plan on the ground that it was below the liquidation value of the Corporate debtor and that the operational creditors were not treated at par with the financial creditors.

The Hon'ble NCLT, Hyderabad bench vide order dated 21.01.2019 had approved the Resolution plan – which consist of an upfront payment of Rs. 477 Crores by the Successful Resolution applicant – Maharashtra Seamless Limited. The said order was appealed before the Hon'ble NCLAT – wherein the Successful Resolution applicant was asked to revise their approved Resolution Plan for resolving the corporate debtor – United Seamless Tubulaar Private Limited to match the liquidation value.

The Hon'ble Supreme Court held that “No provision in the code or Regulations has been brought to our notice under which the bid of any Resolution Applicant has to match liquidation value arrived at in the manner provided in Clause 35 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016”. The bench further held that, “It appears to us that the object behind prescribing such valuation process is to assist the CoC to take decision on a resolution plan properly. Once a resolution plan is approved by the CoC, the statutory mandate on the Adjudicating Authority under Section 31(1) of the code is to ascertain that a resolution plan meets the requirement of sub-sections (2) and (4) of Section 30 thereof. We per se, do not find any breach of the said provisions in the order of the Adjudicating Authority in Approving the Resolution plan”.

Referring to the decision taken in the Essar Steel Case, the Hon'ble Supreme Court held that the Hon'ble NCLAT has exceeded its jurisdiction by interfering with the commercial wisdom of the CoC. The Hon'ble Apex court held that the court ought to cede ground to the commercial wisdom of the creditors rather than assess the resolution plan on the basis of quantitative analysis – which is the scheme of the code.

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