

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 368 of 2018

IN THE MATTER OF:

**Eastern Ranges Flat Owners
Welfare Association, Pune**

...Appellant

Versus

M/s. Phadnis Properties Ltd. & Ors.

...Respondents

Present:

For Appellant : Ms. Ruhi Chopra, advocate

O R D E R

13.07.2018 Learned counsel for the appellant submits that the ‘flat buyers’ are ‘Financial Creditors’ within the meaning of Section 5(7) r/w (8) of the Insolvency and Bankruptcy Code, 2016 however their case were not considered and order of ‘liquidation’ was passed by the Adjudicating Authority (National Company Law Tribunal), Mumbai Bench, Mumbai.

From the record, we find that in absence of any ‘resolution applicant’, the Adjudicating Authority ordered for ‘liquidation’.

Learned counsel appearing on behalf of the appellant submits that if they would have given information to attend the meeting of ‘Committee of Creditors’ in absence of ‘resolution applicant’, the applicant ‘Flat Owners Welfare Association’ would have submitted a ‘resolution plan’ for the purpose of taking over the project of the ‘Corporate Debtor’. It is also submitted that flat owners are not ineligible under Section 29A and therefore their ‘Association’ can be a

‘resolution applicant’ and if given that opportunity, they would have been successful ‘resolution applicant’.

To find out, whether on the basis of the stand taken by the appellant, the ‘corporate insolvency resolution process’ should have been given a positive direction for success of resolution and maximisation of assets, instead of liquidation, we issue notice to the respondents.

Learned counsel for the appellant is allowed to file petition for condonation of delay by 20th July, 2018.

Let notice be issued on the respondents after **20th July, 2018** both in the matter of condonation of delay and the appeal by Speed Post. Requisite alongwith process fee, if not filed, be filed by 25th July, 2018. If the appellant provides *e-mail* address of the respondents, let notice be also issued through *e-mail*.

Post the case for ‘admission’ on 9th August, 2018.

Until further orders, ‘liquidator’ or Adjudicating Authority will not take any step to sell any movable or immovable property of the ‘Corporate Debtor’ and will not proceed with the liquidation proceeding.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

/ns/uk/