

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

I.A. No. 705 of 2018

IN

Company Appeal (AT) (Insolvency) No. 184 of 2018

IN THE MATTER OF:

Srei Infrastructure Finance Ltd.

...Appellant

Versus

Sumit Binani & Ors.

...Respondents

Present:

For Appellant : **Mr. Sudipto Sarkar, Senior Advocate assisted by
Mr. Diwakar Maheshwari, Mr. Shownd Mitra and Mr.
Shreyas E., Advocates**

For Respondents : **Mr. Arun Kathpalia, Senior Advocate assisted by
Ms. Manisha Chaudhary and Mr. Mansumyer Singh,
Advocates for Resolution Applicant**

**Mr. Tushar Mehta, ASG assisted by Ms. Misha, Mr.
Sapan Gupta, Mr. Shantanu Chaturvedi and Ms.
Mrida Lakhmani, Advocates for CoC**

**Mr. Arjun Asthana and Ms. Srechita Ghoshdastidar,
Advocates for Resolution Professional**

**Mr. Nitish Massey and Mr. Abhishek Grover,
Advocate for Orissa Metalics**

O R D E R

29.05.2018 Learned Senior Counsel appearing on behalf of the
'Committee of Creditors' submitted that in terms of the earlier orders passed by
this Appellate Tribunal on 9th May, 2018 and 21st May, 2018, the 'Resolution
Plans' were considered by the 'Committee of Creditors'. Objection raised has

been dealt with. He requested to allow the 'Committee of Creditors' to place the approved 'Resolution Plan' before the Adjudicating Authority for its approval, subject to the decision of this appeal.

2. Learned Senior Counsel appearing on behalf of the appellant submits that the case of the appellant has not been considered by the 'Committee of Creditors' as judgment has been reserved in the appeal preferred by the appellant being '*Company Appeal (AT) (Insolvency) No. 317 of 2017*'. According to him if this appeal is decided in favour of the appellant, the 'Committee of Creditors' will have to consider the case of the appellant. Therefore, request has been made not to place the approved 'Resolution Plan' before the Adjudicating Authority.

3. Taking into consideration the facts and circumstances of the case and the time schedule of completion of the 'corporate insolvency resolution process', we pass the following order :

1. 'Resolution Professional' is allowed to place the plan approved by the 'Committee of Creditors' before the 'Adjudicating Authority' in the sealed cover.
2. The 'Adjudicating Authority' will consider the Resolution Plan of the successful 'Resolution Applicant'. If any objection has been raised by one or another person, the Adjudicating Authority will also consider the same and if so necessary after notice to concerned party.
3. If any 'Resolution Plan' is approved, it will be subject to the decision of this appeal. In case the appeal is allowed, the 'Adjudicating Authority' may be asked to reconsider the Plan submitted by the

appellant and the successful 'Resolution Applicant' (ONLY) to find out as to which plan to be approved.

4. In case no plan is approved, the 'Adjudicating Authority' will not pass any order for liquidation without prior permission of this Appellate Tribunal.

I.A. No. 705 of 2018 stands disposed of with the aforesaid observations.

The parties are given liberty to file additional affidavit/reply affidavit by the next date enclosing the copy of the decision of the 'Adjudicating Authority', if any, taken in the meantime.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

/ns/gc