



INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

(Company formed by ICAI under Section 8 of the Companies Act 2013)

IBC Case Law Capsule

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**COMMITTEE OF CREDITORS OF AMTEK AUTO LIMITED THROUGH CORPORATION BANK VS. DINKAR T. VENKATSUBRAMANIAN AND ORS.
CIVIL APPEAL NO 6707 OF 2019
DATE OF SUPREME COURT JUDGMENT: 01ST DECEMBER 2021**

Facts of the Case: -

The present appeal by the Committee of Creditors 'CoC' of Amtek Auto Limited through Corporation Bank arises from the impugned judgment and order passed by the National Company Law Appellate Tribunal, New Delhi 'NCLAT' in Company Appeal (AT) (Insolvency) No. 219 of 2019.

The facts of the case are that in the CIRP of Amtek Auto Limited – Corporate Debtor (CD), RP had invited prospective resolution applicants to submit a Resolution Plan whereby Deccan Value Investor LP 'DVI' and M/s Liberty House Group Private Limited "Liberty" were considered by the COC. However, DVI withdrew, and revised plan of Liberty was considered and approved by the COC and NCLT, Chandigarh Bench 'AA'. Later, Liberty did not act as per the approved Resolution Plan.

Subsequently, the CoC filed an application under Section 60(5) and 74(3) of the IBC before AA informing about Liberty and prayed to reinstate the COC and RP to ensure that CD remain as a going concern. Further, CoC prayed to grant 90 days to the RP to make another attempt for a fresh process rather than forcing CD into liquidation on account of fraud committed by Liberty. The AA held that Liberty has defaulted in its obligation under the approved Resolution Plan and granted COC and RP to approach the appropriate authority under the IBC for the determination of default. Further, AA denied the request for carrying out a fresh process by inviting the plans again and directed the reconstitution of the COC for re-consideration of the Resolution Plan submitted by DVI and disposed of the appeal.

The CoC then approached NCLAT feeling aggrieved and dissatisfied with the order passed by AA. Thereafter, RP invited fresh applications from prospective resolution applicants to submit resolution plans. An interest was received from DVI and two other. The same was rejected and DVI was declared as an ineligible resolution applicant. Against the said rejection, DVI filed an appeal before the appellate authority. The NCLAT in its order held that considering the earlier order of AA, the COC was required to consider all resolution plans subject to the pending appeal. The DVI submitted the revised resolution plan. However subsequently, the NCLAT by the impugned judgment and order disposed of the appeal



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filed by the COC and rejected the prayer for exclusion of time and ordered the liquidation of the CD, resulting in present appeal.

Supreme Court's Observations: -

The Supreme Court while issuing notice in the present appeal, had stayed the liquidation proceedings and permitted RP to invite fresh offers. Thereafter DVI submitted fresh offer which was approved by CoC. Subsequently DVI tried to withdraw, which was rejected by the Apex Court.

The Court was of the view that the approved resolution plan has to be implemented at the earliest and that is the mandate under the IBC. Further, the time limit has been condoned in view of the various litigations pending between the parties and in the peculiar facts and circumstances of the case. Therefore, any further delay in implementation of the approved resolution plan submitted by DVI and approved by AA, would defeat the very object and purpose of providing specific time limit for completion of the insolvency resolution process, as mandated under Section 12 of the IBC.

The Apex Court directed implementation of the approved resolution plan and an amount of Rs. 500 crores deposited by DVI as per the approved resolution plan be transferred to the respective lenders/financial creditors as per the approved resolution plan and/or as mutually agreed. Any lapse on the part of any of the parties in implementing the approved resolution plan with the time stipulated hereinabove shall be viewed very seriously.

Order: -

The Supreme Court in view of the above disposed of the Present Appeal.

Case Review: - Appeal Disposed