

IBC DOSSIER

Bulletin on Landmark Judgments under IBC, 2016



Sreeram E. Techno School Pvt. Ltd. vs. Beans and More Hospitality Pvt. Ltd. Through R.P. Prabhjit Singh Soni & Anr.

Brief Facts

Shree Siyaram Automations Private Limited now 'Shreeram E Techno School Private Limited' – Appellant herein) moved an application under Section 7 of the Code, pursuant to which 'CIRP' was initiated against Beans and More Hospitality Pvt. Limited (CD). In the said case, the 'resolution plan' was submitted by one Mr. Abhay Jain, 'Promoter', was considered by the 'CoC' in its meeting on 12th November, 2018 by voting of 74.19% of voting share discussing all aspects of approved 'resolution plan'. The Adjudicating Authority taken into consideration all the facts and the plan being in consonance of Section 30(2) of the Code approved the said plan by impugned order dated 19th July, 2019.



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Decision

- a.** There is no bar for the promoter to file a resolution application, even if otherwise not eligible in terms of Section 29A of the Code. **[Para 4]**

- b.** The NCLAT also held that a resolution plan cannot be rejected on the ground that the CD is not a going concern if the resolution applicant can show the feasibility to run the company in the future. It was clarified that the question of viability, feasibility and other conditions as prescribed by the IBBI can be looked into by the CoC that has the requisite financial expertise. Such an issue of viability, feasibility and other conditions of the CD cannot be looked into by the NCLT or the NCLAT. **[Para 5]**

Link of the Order

<https://ibbi.gov.in/uploads/order/e486d48eabd00a36c612b66801570559.pdf>



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