

IBC DOSSIER

Bulletin on Landmark Judgments under IBC, 2016



PARAMVIR SINGH TIWANA Vs. PUMA REALTORS PRIVATE LIMITED

Brief Facts

In the present case, the appeals that were filed were against the NCLT order that approved the resolution plan. According to Bench in its previous order, "Once the Resolution Plan is adopted, the NCLT has extremely limited jurisdiction and cannot interfere with the merits of the Business Decision of the Committee of Creditors.

Regarding the unfair treatment of creditors, the Tribunal stated that the equity concept cannot be overstretched to the point where unequal are treated equally because that would defeat the intent of the IBC. The power of judicial review in these situations is also very constrained to ensure that the CoC had taken into account the Corporate Debtor's ability to continue operating and maximize the value of its assets throughout the Corporate Insolvency Resolution Process.

It was also noted that the land owned by GMADA was essential to the Corporate Debtor. The GMADA was in contact with the Resolution Professional, and the statutory dues owed to GMADA cannot be criticized, even though the Tribunal did not understand why they did not file their claims. Furthermore, the CoC made a commercial decision to treat Operational Creditors' debts differently, and this cannot be interpreted as a significant irregularity.

Decision

The court observed that the appellant's main argument was that the aforementioned NCLT order could not have been drafted in a single day by the Acting President and that it was uploaded in 2021 during the summer vacation time. According to the Tribunal, the NCLT had already decided to grant the Application and adopt the Resolution Plan. A detailed order would be passed during the day, as was already made clear. There was no procedural irregularity, therefore.

The Tribunal further held that because they were only permitted to appeal based on merits, the Appellants could not have addressed the issue of natural justice at this appellate stage. The Tribunal does not have residual equity-based authority to order claim adjustments after the Resolution plan has been approved, the Appellate Authority further emphasized. Once the Resolution Plan has been authorized, the NCLT's authority is severely constrained and it is not permitted to challenge the CoC's business decision on its merits.

The Appellate Tribunal held that considering that the Resolution Plan was adopted by the CoC in 2019 and the NCLT two years later in 2021, the plan has already been put into practice. The appeal was denied because the Tribunal did not think it was a good enough reason to turn back the clock.

Link of the Order

<https://ibbi.gov.in/uploads/order/78b727dc3dbba86fa15e807795a98345.pdf>



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