

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 2

ITEM No301
IA/425(AHM)2022
in
CP(IB) 184 of 2018
Proceedings under Section Sec 30(6) r.w 31(1) r.w regulation 39(4) IBBI,2016

IN THE MATTER OF:

Avil Menezes Resolution Professional of AMW Motors Limited
V/s
India Overseas Bank

.....Applicant
.....Respondent

Order delivered on ..29/09/2022

Coram:

Dr.Deepti Mukesh, Hon'ble Member(J)
Ajai Das Mehrotra, Hon'ble Member(T)

PRESENT:

For the CoC : Mr. Dhruvad Vaghani, Adv. Mr. Ajiz M K, Adv.
: Mr. Rishabh Sethi, Adv. i/b. LEx Aeterna Practise,

For the Resolution Applicant : Mr. Devang Nanavati, Sr. Adv. with Mr. Monaal Davawala, Adv.

For the RP : Mr. Bishwajit Dubey, Adv. Mr. Madhav Kanoria, Adv.
: Ms. Aishwarya Gupta, Adv. & Ms. Jeta Shree, Adv.
i/b. Cyril Amrchand Mangaldas.

CLARIFICATION ORDER

- 1) In view of the recent judgment of the Hon'ble Supreme Court in the case of State Tax Officer Vs. Rainbow Papers Limited (CA No. 1661/2020) on the issue of the statutory dues, we call upon the RP to put forth his submission as to whether the Resolution Plan under reference is in compliance with the decision of the Hon'ble Supreme Court in the case of Rainbow Papers Limited on the issue of priority of statutory dues payable by the corporate debtor.
- 2) As per Form-H (page 767), no provision for payment is made for unsecured Financial Creditors who have not voted in favour of the Resolution Plan whereas those who have voted in favour of the Resolution Plan are being paid 6.71% of the admitted claims. This is

apparently a violation of Sub-section (2) of Section 30 and the plan is liable to be rejected in view of the provisions of Sub-section (1) & (2) of Section 31 of IBC, 2016.

- 3) There is a discrepancy in the amounts reflected in the Resolution Plan in Form-H (pages 766 & 767) and in the IA (pages 43 to 45).

In view of above clarifications, order is de-reserved. Let clarification come on record within one week.

List on 19.10.2022.

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**AJAI DAS MEHROTRA
MEMBER (TECHNICAL)**

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**DR. DEEPTI MUKESH
MEMBER (JUDICIAL)**