

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Company Appeal (AT) (Insolvency) No. 514 of 2023

IN THE MATTER OF:

Ocean Capital Market Ltd.

...Appellant

Versus

**Uday Narayan Mitra,
Former RP of ARSS Infrastructure Projects Ltd. &
Ors.**

...Respondents

Present:

For Appellant: Mr. Arun Kathpalia, Sr. Advocate with Mr. Kaustubh Prakash, Ms. Hita Sharma, Ms. Diksha Gupta, Ms. Kirti Gupta, Advocates

For Respondent: Mr. Abhijeet Sinha, Mr. Anand Varma, Ms. Apoorva Pandey, Ms. Adyasha Nand, Advocates for R-1
Mr. Amit Mahaliyan, Advocate for R-6

ORDER

25.04.2023: Learned Counsel for the Appellant submits that the Appellant is Successful Resolution Applicant whose plan was approved by the Committee of Creditors and the Application for approval of the plan was up for consideration. It is submitted that dissenting financial creditors PNB, Kotak Bank and Bank of India filed objections that they are dissenting financial creditors and their personal guarantees cannot be assigned to the Successful Resolution Applicant. Learned Counsel for the Appellant submits that an Affidavit was filed by Successful Resolution Applicant stating that with regard to the dissenting financial creditors Personal Guarantees shall not be assigned and that will continue with them. It is submitted that Adjudicating Authority also noticed the affidavit but has rejected plan observing that it is violative of Section 128 of the Contract Act. The Adjudicating Authority further directed liquidation by the impugned order.

2. Submissions need scrutiny. Issue notice. Learned Counsel appearing for Respondent No. 1 and No. 6 accept notice. Issue notice to other Respondents through Speed Post as well as Email. Requisites along with process fee, if not filed, be filed within two days.

3. Reply-Affidavits may be filed within two weeks. In the meantime, Impugned Order directing for liquidation shall remain stayed. The Resolution Professional shall continue to manage the affairs of the Corporate Debtor as a going concern.

List this Appeal on **30th May, 2023**.

[Justice Ashok Bhushan]
Chairperson

[Mr. Barun Mitra]
Member (Technical)

Basant/nn