

Assam Co eligibility hurdle

ARGUMENT CONTINUES

- **The condition:** Net worth of applicants must be Rs 400cr
- **Bidders' argument:** Net worth arrived at based on liquidation and fair value of Assam Co
- **Basis of fixing net worth criteria was illegal as creditors would be able to decide the liquidation and fair value only after the resolution plans were submitted**

Calcutta: The corporate insolvency resolution process of Assam Company continues to be dogged by controversies over the conditions set in the tender, with one more company seeking to bring down the eligibility criteria of the bidders.

James Warren Tea Ltd argued before the company tribunal on Monday that the resolution professional (RP) running the insolvency procedure of Assam Co did not fix the tender condition in accordance with the provisions of the Insolvency & Bankruptcy Code, 2016.

It is the second company after MK Shah Exports Ltd to challenge the criteria set by RP, Kannan Tiruvengadam, and the committee of creditors of Assam Co.

MK Shah received a favourable order from the Guwahati bench of the National Company Law Tribunal.

However, the RP has challenged the order before the appellate tribunal, which is understood to have stayed the Guwahati order.

Abhrajit Mitra, senior counsel appearing for James Warren, said the minimum net worth criteria of Rs 400 crore, which prospective resolution applicants must have to be able to bid for Assam Co, has been set on the basis of the liquidation and fair value of Assam Co.

Speaking before the bench at Guwahati, Mitra said the CoC must set the criteria under section 25(2)h of IBC.

The creditor could not have known the liquidation and fair value at this stage as the numbers are revealed when the resolution plans are submitted. Accordingly, the basis of fixing the net worth criteria was illegal, Mitra contended.

After the resolution professional called for expressions of interest (EoIs), nine entities, including Dhunseri Group, Luxmi Tea, The Chatterjee Group and ARCIL, have submitted EoIs.

Mitra also argued that the evaluation matrix should have been published while seeking the EoI, which has not been done.

However, a legal source said fixing the net worth criteria was a commercial decision of the CoC and such decisions cannot be held arbitrary.

The Guwahati bench has asked both the parties to give their written submissions before passing an order.

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