NATIONAL COMPANY LAW APPELLATE TRIBUNAL NEW DELHI

Company Appeal (AT) (Insolvency) No. 800 of 2019

IN THE MATTER OF:

Mr. S. Shivaswamy, R.P & Liquidator of Le Ecosystem Technology Pvt. Ltd.

...Appellant

Versus

Concentrix Daksh Services India Private Limited & Anr.

...Respondents

Present:

For Appellant: Mr. Saransh Jain and Mr. Madhavam Sharma,

Advocates

ORDER

O6.08.2019 The only question arises for consideration in this appeal is as to whether the Adjudicating Authority while passing the order of liquidation can observe regarding the fee of the 'Liquidator' which should be proportionate to the liquidation estate as per Section 34(8) of the 'I&B Code' or it will depend on the stage of the 'Liquidation'.

Learned counsel appearing on behalf of the Appellant submits that the income-tax refund receivable being the asset of the 'Corporate Debtor' can be disbursed only in the manner as prescribed in the 'I&B Code'. However, it is not clear what is the stage of the liquidation process and whether any step has been taken under Section 230 of the Companies Act, 2013 in terms of the decision of this Appellate Tribunal in "Y. Shivram Prasad Vs. S. Dhanapal & Ors.-Company Appeal (AT) (Insolvency) No. 224 of 2018 etc.". Further according

to him, if the 'Liquidation' reaches its finality i.e. by death of the company, then in such case, Section 53 of the 'I&B Code' will be applicable.

such case, section so of the last code win se applicasie.

For the aforesaid reasons, we allow the learned counsel appearing on

behalf of the Appellant to file supplementary affidavit within 10 days giving

details of the stage of the liquidation and whether any steps have been taken u/s

230 of the Companies Act.

In the meantime, let notice be issued on the respondents by Speed Post.

Requisite along with process fee, if not filed, be filed by 7th July, 2019. If the

appellant provides the e-mail address of respondents, let notice be also issued

through *e-mail*.

Post the case 'for Admission (After Notice)' on 2nd September, 2019 within

5 cases. The appeal may be disposed of on the next date.

[Justice S.J. Mukhopadhaya] Chairperson

[Justice A.I.S. Cheema] Member (Judicial)

> [Kanthi Narahari] Member (Technical)

/ns/gc