NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 887 of 2019

IN THE MATTER OF:

Edelweiss Asset Reconstruction Company LimitedAppellant Vs.

Sai Regency Power Corporation Pvt. Ltd. & Anr.Respondents

Present: For Appellant: - Mr. Sanjiv Sen, Senior Advocate with Mr. Arjun Krishnan, Mr. Sumit Srivastava, Ms. Khushboo Mittal, Advocates.

O R D E R

30.08.2019— Learned counsel for the Appellant submits that the 'Interim Resolution Professional' cannot raise 'interim finance' and cost relating to 'interim finance' from all the members of the 'Committee of Creditors' in proportion of voting rights as was prayed for by the 'Resolution Professional' and ordered by the Adjudicating Authority (National Company Law Tribunal), Division Bench, Chennai.

He placed reliance on sub-section (2) (c) of Section 20 and subsection (2) (c) of Section 25 of the Insolvency and Bankruptcy Code, 2016 in terms of which the 'Interim Resolution Professional'/ 'Resolution Professional' may raise interim finance with the prior consent of the creditors whose debt is secured over encumbered property.

Contd/-....

It is also submitted that the Appellant is not a 'secured creditor' of the 'Corporate Debtor'.

It is further stated that the interim order was passed without notice to the members of the 'Committee of Creditors' including the Appellant.

Let notice be issued on Respondents by speed post. Requisite along with process fee, if not filed, be filed by 2nd September, 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 30th September, 2019 on the top of the list.

During the pendency of the appeal, if the Appellant release any fund/ letter of comfort in terms of the impugned order dated 21st August, 2019 it shall be subject to the decision of this appeal.

> (Justice S.J. Mukhopadhaya) Chairperson

> > (Justice A.I.S. Cheema) Member(Judicial)

> > > (Kanthi Narahari) Member(Technical)