

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**NEW DELHI**

**Company Appeal (AT) (Ins) No.460 of 2020**

**IN THE MATTER OF:**

**V N Commercial Corporation**

**...Appellant**

**Versus**

**C Srinivasan, Resolution Professional & Ors.**

**...Respondents**

**For Appellant:                Shri Ashish Rana, Advocate**

**For Respondents:            None**

**ORDER**

**02.06.2020**        Heard Counsel for Appellant. It is stated that in this matter, the earlier Resolution Professional had taken Report of CA and after doing necessary verification under Regulation 35A of the CIRP Regulations, moved the Adjudicating Authority with Applications under Sections 66, 43 and 44 of Insolvency and Bankruptcy Code, 2016 with regard to preferential transactions and fraudulent trading. It is stated that one of the Applications was also heard and was reserved for Orders of the Adjudicating Authority. Counsel refers to Memo filed by the new Resolution Professional who was appointed after getting the earlier Resolution Professional changed which is at Page – 505 of the Paper Book. After filing this Memo, the earlier Applications filed under Sections 66, 43 and 44 have been allowed to be withdrawn. It is stated that the earlier Resolution Professional was changed because he was found uncomfortable by the concerned who were affected by the Applications filed. The new Resolution Professional took a decision from COC (Committee

of Creditors) and filed a Memo without a clear statement that fresh Applications will be filed. The Memo states that the withdrawal was being sought to file “afresh if required”. The Impugned Order has been passed as if liberty to file afresh is sought. The Counsel states that by such device wrongful acts are tried to be suppressed. It is argued that once such facts are brought before Adjudicating Authority, simple withdrawal cannot be permitted and the Adjudicating Authority is bound to consider the documents and take decision one way or the other, whether or not the application is pursued.

Issue Notice. Requisite along with process fee, if not filed, be filed by tomorrow. If the Appellant provides the e-mail address of other Respondents, let notice be also issued through e-mail.

List the Appeal ‘for admission (after Notice)’.

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

[Alok Srivastava]  
Member (Technical)

*/rs/md*