

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No.951 of 2019

IN THE MATTER OF:

Edwell Infrastructure Hazira Ltd.

...Appellant.

Versus

Siddhi Vinayak Logistics Ltd. & Anr.

...Respondents.

Present:

For Appellant: **Shri Ramji Srinivasan, Sr. Advocate with Shri Raheel Patel, Shri Hinanshu Satija, Shri Rohan Talloar, Advocates**

For Respondent: **None**

ORDER

13.09.2019 Heard learned Sr. Counsel for the Appellant. The question arises for consideration is whether during the corporate insolvency resolution process of the Corporate Debtor or during the liquidation proceedings, Corporate Debtor itself can move an Application under Section 7 or 9 of the Insolvency and Bankruptcy Code, 2016 (I&B Code – in short), which is part of Chapter II of the I&B Code. The other question will be as to how a Corporate Debtor's asset, if lying with the third party, can be taken over by an Interim Resolution Professional/Resolution Professional in terms of Section 18 read with Section 25 of the I&B Code and the statement and object of the I&B Code.

Issue notice to the Respondents. Requisite along with process fee, if not filed, be filed by 16.09.2019. If the Appellant provides e-mail address of Respondents, let notice be also issued through e-mail.

Post the case 'for admission' on **22nd October, 2019** within top 5 cases.

In the meantime, the IRP/'Resolution Professional' with the help of Directors/management will ensure that the company remains going concern and the manufacturing and production of the company do not suffer, payment of wages to the employees/workmen are made on time and if any material is supplied during 'Corporate Resolution Process', the payment must be made to the supplier/creditor. The 'Insolvency Resolution Professional' will also take aid of (suspended) Board of Directors, paid Directors and employees. The Banks having accounts of the 'Corporate Debtor' will also cooperate with the 'Insolvency Resolution Professional' to ensure compliance of this order. IRP/Resolution Professional will not issue any advertisement calling for application till next date.

However, if Committee of Creditors is constituted, it will not finalize any Resolution Plan without prior approval of this Appellate Tribunal.

[Justice S.J. Mukhopadhaya]
Chairperson

[Kanthi Narahari]
Member (Technical)

/rs/gc