

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

**Company Appeal (AT) (Ins.) No. 348 of 2020**

**In the matter of:**

**Jayanta Banerjee**

**....Appellant**

**Vs.**

**Shashi Agarwal, The Liquidator of  
INCAB Industries Ltd. & Anr.**

**....Respondents**

**Present**

**For Appellant:**

**Mr. Rishav Banerjee, Mr. Avishek Das, Ms. Arushi  
Mishra, Mr. Ritoban Sarkar, Mr. Madhuja Barman &  
Ms. Satyaki Chaudhuri, Advocates.**

**For Respondents:**

**Mr. Sanjib Kumar Mohanty, Mr. Akhilesh Shrivastava,  
Ms. P.S. Chandralekha, For Intervener.**

**Mr. Kumar Anurag Singh, Mr. Anando Mukherjee,  
Mr. Zain A. Khan & Mr. Krishnendu Datta, For  
Liquidator.**

**Mr. Shashi Agarwal (Liquidator of INCAB Industries  
Ltd.)**

**Mr. Rudreshwar Singh, Mr. Gautam Singh,  
Mr. Saurabh Jain, For CoC.**

**Mr. Dhruv Malik & Mr. Kamendra Singh (Intervention  
for Tropical Ventures Company Ltd).**

**With**

**Company Appeal (AT) (Ins.) No. 720 of 2020**

**In the matter of:**

**Bhagwati Singh**

**....Appellant**

**Vs.**

**INCAB Industries Ltd.**

**....Respondent**

**Present**

**For Appellant:**

**Mr. Sanjib Kumar Mohanty, Mr. Akhilesh Shrivastava,  
Ms. P.S. Chandralekha & Mr. Akash Sharma,  
Advocates.**

**For Respondent: Mr. Kumar Anurag Singh, Mr. Anando Mukherjee, Mr. Zain A. Khan & Mr. Krishnendu Datta (For Liquidator, R-1).**

**Mr. Shashi Agarwal (Liquidator of INCAB Industries Ltd.)**

**Mr. Rudreshwar Singh & Mr. Saurabh Jain, (For CoC, R-2).**

**ORDER**  
**(Virtual Mode)**

**27.01.2021:** (1) Arguments of Learned Counsel for Liquidator heard. The Learned Counsel submitted that the Resolution Professional had sent e-mails dated 5<sup>th</sup> November, 2019 to Kamala Mills and Fasqua that they were not eligible. It is stated that list of assets were also prepared and along with information memorandum which was prepared they were placed before the 5<sup>th</sup> CoC. Counsel submitted that the 5<sup>th</sup> CoC, however, did not decide to proceed further with information memorandum. The Learned Counsel submits and the Liquidator is permitted to file copies of (i); Two e-mails dated 5<sup>th</sup> November, 2019 sent to Kamala Mills and Fasqua, (ii); Copies of list of assets stated to have been prepared at the time of CIRP and (iii); Copies of the information memorandum said to have been placed before the 5<sup>th</sup> CoC Meeting. The documents be filed with supporting Affidavit.

(2) Counsel for the Appellant in Company Appeal (AT) (Insolvency) No. 348 of 2020 Mr. Rishav Banerjee submits that one of the Directors of the Corporate Debtor Mr. M.B. Shah has filed an Affidavit dated 22<sup>nd</sup> January, 2021 before a Special Court and he wants to file certified copy of the said Affidavit. In

interest of Justice, the Learned Counsel may file certified copy of the said Affidavit within one week along with Affidavit of the Appellant in Company Appeal (AT) (Insolvency) No. 348 of 2020.

(3) The Appellant in Company Appeal (AT) (Insolvency) No. 720 of 2020, and Respondents of the two appeals may file their Response to the documents now being filed by the Learned Counsel for the Respondent No. 1 and the Learned Counsel for the Appellant in Company Appeal (AT) (Insolvency) No. 348 of 2020 within one week, thereafter.

(4) List both these appeals as '**Part Heard**' on **22<sup>nd</sup> February, 2021**. In the meanwhile, the two Interim Orders passed on 27<sup>th</sup> February, 2020 and 22<sup>nd</sup> January, 2021 shall continue.

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

**[Mr. V.P. Singh]**  
**Member (Technical)**

*Sim/md*