

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Ins) No.951 of 2019 and
I.A. Nos.1719 & 2557 of 2020

IN THE MATTER OF:

Edwell Infrastructure Hazira Ltd.

...Appellant

Versus

Siddhi Vinayak Logistics Ltd. & Anr.

...Respondents

For Appellant:

**Shri Abhijeet Sinha, Shri Himanshu Satija and
Shri Rohan Talwar, Advocates**

For Respondents:

**Moulshree Shukla, Advocate (R-1)
Shri Arvind Kumar Gupta, Ms. Henna George, and
Ms. Purti Gupta, Advocates (R-2)
Shri Mahesh Gupta (IRP - R-2)
Ms. Ragini Gupta, Advocates**

ORDER
(Virtual Mode)

11.01.2021 Counsel for Respondent No.2 – Arkay Logistics Limited – Corporate Debtor through RP submits that she has filed I.A. No.2557 of 2020 with the object of keeping the Corporate Debtor a going concern. The Application is filed against Arcelor Mittal Nippon Steel India Limited, as they have suddenly stopped complying with the contract they had with the Corporate Debtor and this has put the Corporate Debtor in difficulty. She states that she has to keep the Corporate Debtor a going concern. She states that the I.A. is unconnected with regard to merits of Appeal. She states that the Hon'ble Supreme Court is seized with regard to the issue of Amendment in Section 11 of Insolvency and Bankruptcy Code, 2016 (IBC – in short) whereby explanation II has been added and the Orders of stay granted are in that context. She submits that Notice may be issued in I.A. No.2557 of 2020.

Counsel for the Appellant – Mr. Abhijeet Sinha submits that the Appellant has filed the present Appeal in view of the provisions of unamended Section 11 of IBC and the present Appeal gets affected because of the Amendment. Counsel for Appellant states that the Appellant is also interested that the Company remains a going concern and it is stated that the relief sought in I.A. 2557 of 2020 is different and Orders of stay passed by Hon'ble Supreme Court of India are not in connection with the issue raised in I.A. 2557 of 2020. The Counsel for the Appellant does not object to Notice being issued in I.A. 2557 of 2020. The Counsel for Appellant submits that the Appellant has filed Writ Petition No.267 of 2020 which is now reserved for Judgement and the subject matter in that Appeal is different from the present I.A. No.2557 of 2020. He does not object to issue of the Notice. Counsel for Respondent No.1 - Siddhi Vinayak Logistics Ltd. – Operational Creditor, leaves the matter to this Tribunal.

Issue Notice in I.A. No.2557 of 2020.

List the Appeal on 11th February, 2021 awaiting the decision of the Hon'ble Supreme Court.

Meanwhile, the Opponent in I.A. No.2557 of 2020 may file Reply.

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

[Dr. Alok Srivastava]
Member (Technical)

rs/md