

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 1096 of 2020

In the matter of:

Kanwar Raj Bhagat

....Appellant

Vs.

Gujarat Hydrocarbons and Power SEZ Ltd & Anr.

....Respondents

Present:

Appellant: Mr. Arun Kathpalia, Senior Advocate with Mr. Ajay Gaggar, Mr. Divij Kumar, Mr. Varun Tandon, Ms. Rakhi Purnima Paul, Mr. Rohan Malik, Ms. Diksha Gupta, Mr. Kauser Husain, Advocates.

Respondents: Mr. Supriyo Gole, Mr. Rishav Banerjee, Advocates for R1.
Ms. Nattasha Garg, Mr. Abhimanyu Bhandari, Mr. Arav Pandit, Advocates for R2.

ORDER

(Through Virtual Mode)

22.12.2020: The issue raised in this appeal filed against admission of application under Section 7 of the Insolvency and Bankruptcy Code, 2016 in terms of the impugned order dated 18th November, 2020 passed by the Adjudicating Authority (National Company Law Tribunal), Division Bench, Delhi, Bench III, is that the successful Corporate Insolvency Resolution Process has taken place against the Corporate Guarantor/ ACIL of Corporate Debtor in respect of same debt and default and in terms of law laid down in ***“Dr. Vishnu Kumar Agarwal v. Piramal Enterprises Limited- Company Appeal (AT) (Insolvency) Nos. 346 7 347 of 2018”***, the impugned order cannot be sustained.

Issue notice upon Respondents. Notice on behalf of Respondent No.1 is waived and accepted by Mr. Supriyo Gole, Advocate. Notice on behalf of Respondent No.2 is waived and accepted by Ms. Nattasha Garg, Advocate. No further notice need be issued to them. Reply affidavit may be filed by the Respondents within 2 weeks. Rejoinder, if any, be filed within 2 weeks thereof.

Contd/-.....

Learned counsel for Respondent No.1 (IRP) seeks to file status report instead of reply-affidavit. He is permitted to do so.

Written submissions not exceeding three pages may also be filed by the parties along with the pleadings supported by the relevant case law.

List the appeal 'for admission (after notice)' on 5th February, 2021.

In the meantime, the 'Interim Resolution Professional' will ensure that the company remains going concern and will take assistance of the (suspended) Board of Directors and the officers/ Directors/employees. The person who is authorised to sign the bank cheques may issue cheques but only after approval of the 'Interim Resolution Professional'. The bank account of the 'Corporate Debtor' be allowed to be operated for day-to-day functioning of the company such as for payment of current bills of the suppliers, salaries and wages of the employees'/workmen electricity bills etc.

**[Justice Bansi Lal Bhat]
Acting Chairperson**

**[Justice Anant Bijay Singh]
Member (Judicial)**

**[Shreasha Merla]
Member (Technical)**

AR/g