

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 274 of 2020

IN THE MATTER OF:

Amit Bharana

...Appellant

Vs.

**Gian Chand Narang
Resolution Professional for
Apex Buildsys Ltd.**

...Respondent

**Present: For Appellant: - Mr. Gaurav Mitra, Ms. Megha Choubey
and Mr. Apoorv Agarwal, Advocates.**

**For Respondent: - Mr. Abhishek Anand, Ms. Honey Satpal
and Mr. Viren Sharma, Advocates for R-1.**

O R D E R

14.02.2020— Learned counsel for the Appellant (Promoter) submits that leasehold of the land by the Government cannot be taken into consideration for deciding the liquidation value/ assets of the 'Corporate Debtor' and the valuation made therein is excluded for the purpose of counting the liquidation value/ assets of the 'Corporate Debtor'. Then there are five 'Resolution Plans' which have been complied in terms with the provisions and having more valuation. They could not compete because of the higher valuation wrongly shown after having taken into consideration the lease hold right of the 'Corporate Debtor' which, according to the Appellant, is against the decision of Hon'ble Supreme Court in "***Municipal Corporation of Greater Mumbai (MCGM) v. Abhilash Lal and Ors.- 2019 SCC OnLine SC 1479***" (para 47).

Contd/-.....

2. Since Mr. Abhishek Anand, Advocate appears on behalf of the Liquidator, no further notice is required to be issued. He is allowed to file Vakalatnama and reply-affidavit within a week. Rejoinder, if any, be filed within a week thereof.

Post the case 'for admission (after notice)' before appropriate Bench on 3rd March, 2020.

During the pendency of the appeal, the Liquidator will not sell, transfer or alienate moveable or immovable property of the 'Corporate Debtor' nor create any third party encumbrance. However, he will ensure that the Company remains a going concern during the period of liquidation and will follow the decision of this Appellate Tribunal in "**Y. Shivram Prasad Vs. S. Dhanapal & Ors.- Company Appeal (AT) (Insolvency) No. 224 of 2018**" disposed of on 27th February, 2019.

(Justice S.J. Mukhopadhaya)
Chairperson

(Alok Srivastava)
Member(Technical)

Ar/rr