

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency)No. 509 of 2019

IN THE MATTER OF:

State Bank of India

.....Appellant

Vs.

Anuj Bajpai (Liquidator)

.....Respondent

Present :

For Appellant:

Mr. P.V. Dinesh, Mr. Ashwini Kumar Singh, Mr. R.S. Lakshman, Ms. Sindhu T.P., Advocates

For Respondents:

Mr. Rajendera Beniwal, Mr. Kumar Sumit, Mr. Shriram, Mr. Vishal, Advocates

O R D E R

13.09.2019 - The question arises for consideration is whether the 'Secured Creditors' – (Appellant Bank herein) can sell or settle the secured asset u/s 52(1)(b) read with Section 52(4) to a person who is ineligible u/s 29A of the 'I&B' Code.

Learned counsel for the Appellant relied on the decision of this Appellate Tribunal in **"S.C. Sekaran v. Amit Gupta & Ors.– Company Appeal (AT) (Insolvency) Nos. 495 & 496 of 2018"** and **Y. Shivram Prasad Vs. S. Dhanapal & Ors. in Company Appeal (AT) (Insolvency) No. 224 of 2018** to suggest that the Creditor can make arrangement and scheme u/s 230 of the

.....contd.

Companies Act. According to him such arrangement / scheme can be made with the Members i.e. the Promoters. In such case also, the question will arise for consideration will be whether the scheme of arrangement can be framed u/s 230 for transferring the 'Corporate Debtor' along with its assets during the liquidation proceedings to a person who is ineligible u/s 29A of the 'I&B' Code.

Learned counsel for the Appellant relied on the decision of "**Hon'ble Supreme Court in 'Pegasus Assets Reconstruction Private Limited Vs. Haryana Concast Limited and Another (2016) 4 Supreme Court Cases 47'**" wherein the Hon'ble Supreme Court discussed the provisions of **SARFAESI Act, 2002**.

In such case, the third question will arise for consideration is to whether the terms of settlement and arrangement as mentioned under the **SARFAESI Act, 2002** can be borrowed for 'I&B' Code, in view of Section 3(37) of the 'I&B' Code read with Section 238 of the 'I&B' Code.

Heard the parties. **Judgement is reserved.**

It will be open to the parties to file short written submissions not more than three pages by 16th September, 2019.

[Justice S. J. Mukhopadhaya]
Chairperson

[Kanthi Narahari]
Member (Technical)