

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

**Company Appeal (AT) (Insolvency) No. 1232 of 2019**

**IN THE MATTER OF:**

**MAIF Investment India 2 Pte Ltd.**

**...Appellant**

**Versus**

**Ind-Barath Energy (Utkal) Ltd. & Anr.**

**...Respondents**

**For Appellant: Mr. Aman Sharma, Advocate.**

**For Respondent: Mr. Abhijeet Sinha, Mr. Shashank Agarwal and  
Ms. Aayushi Singh, Advocates for R-1, RP  
Ms. Mehak Suri, Advocate for COC**

**O R D E R**

**17.03.2020** Learned counsel for the Appellant submits that the instructing counsel has not been able to travel because of travel restrictions and time is sought.

Learned counsel for Respondent states that for reasons stated he has no objection to the adjournment. However, the learned counsel states that although on 13<sup>th</sup> November, 2019 this Appellate Tribunal had passed orders that during the pendency of the Appeal if any order is passed by the Adjudicating Authority and Resolution Plan is approved it will be subject to the decision of this Appeal, the application No. 582 of 2019 for approval of the Resolution Plan by the Adjudicating Authority is still pending before the Adjudicating Authority since 7<sup>th</sup> November, 2019 when the arguments were completed and orders were reserved. The Learned counsel states that although time is being sought here, the Appellant filed Memo in I.A. No. 582 of 2019 in CP(IB) No. 276 /07/HDB/2018 before the Adjudicating Authority that principles of natural

justice equity and good conscience required that till the Appeal is pending, the Tribunal should keep the application No. 582 of 2019 pending and not to pass any order approving the Resolution Plan.

It may also be stated that on 16<sup>th</sup> December, 2019 also this Tribunal had recorded that the Adjudicating Authority will proceed with the Application under Section 31 and pass appropriate order, which may be subject to the decision of this Appeal.

When this Tribunal has not stayed the further proceeding on application filed under Section 31 of Insolvency and Bankruptcy Code, 2016, we do not appreciate filing of any such Memo by the Appellant. We make it clear that the Adjudicating Authority is free to proceed with the matter pending before it in terms of the provisions of **IBC, 2016** and pass orders deemed fit in the I.A. said to be pending for orders. Pendency of this Appeal will not come in the way of the Adjudicating Authority.

List the Appeal 'For Admission (After Notice)' on **24<sup>th</sup> April, 2020**.

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

[V.P. Singh]  
Member (Technical)

R N/md/