

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

**Company Appeal (AT) (Insolvency) No. 696 of 2018**

**IN THE MATTER OF:**

**Mr. Hemanth Meka Rao**

**...Appellant**

**Vs.**

**Asset Reconstruction Company (India) Ltd.  
(ARCIL) & Anr.**

**...Respondents**

**Present: For Appellant: - Mr. Rajeev K. Panday, Mr. Vivek Singh  
and Mr. Swastik Dalai, Advocates.**

**For Respondents: - Mr. Dhiren Shah, Liquidator.**

**O R D E R**

**07.03.2019**— This appeal has been preferred by ‘Mr. Hemanth Meka Rao’, Shareholder of ‘M/s. Meka Dredging Company Private Limited’- (‘Corporate Debtor’) against the impugned order dated 20<sup>th</sup> September, 2018. By the said order, the Adjudicating Authority (National Company Law Tribunal), Single Bench, Chennai, passed order under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 (“I&B Code” for short) and ordered for liquidation in absence of any approved plan.

2. Learned counsel appearing on behalf of the Appellant submits that a sum of Rs. 14 Crores was due and out of which a settlement for Rs. 10.38 Crores has been made. Earlier also two ‘Financial Creditors’ paid total amount of Rs. 37 Crores to ‘Asset Reconstruction Company

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(India) Ltd.’ and Rs. 2.5 Crores to ‘L&T Finance’, who have given no dues certificate. However, on completion of the ‘Resolution Process’, we cannot allow any settlement with the promoters and the creditors.

3. Earlier, when the matter was taken up on 28<sup>th</sup> February, 2019, learned counsel for the Appellant pointed out that the ‘Corporate Debtor’ (Company) can be saved by passing appropriate order under Section 230 of the Companies Act, 2013.

4. It was in this background, an interim order was passed on 30<sup>th</sup> January, 2019 prohibiting the liquidator or the Adjudicating Authority to take step to sell or transfer or alienate or make third party encumbrance on the movable or immovable property of the ‘Corporate Debtor’ (Company).

5. Similar issue fell for consideration before this Appellate Tribunal in **“S.C. Sekaran v. Amit Gupta & Ors.— Company Appeal (AT) (Insolvency) Nos. 495 & 496 of 2018”**.

6. The aforesaid judgment was also reiterated in the case of **“Y. Shivram Prasad Vs S. Dhanapal & Ors.— Company Appeal (AT) (Insolvency) No. 224 of 2018 etc.”** wherein a detailed order has been passed as to how the liquidator should proceed.

7. In the aforesaid background, no order of settlement can be passed by this Appellate Tribunal, even though the Appellant, promoter

agrees to pay all the dues. However, we direct the liquidator to proceed in terms of the decision in **“Y. Shivram Prasad Vs S. Dhanapal & Ors.”** (Supra).

8. The appeal stands disposed of with the aforesaid observations and directions. No cost.

(Justice S.J. Mukhopadhaya)  
Chairperson

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

Ar/g