

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) No. 07 of 2020

IN THE MATTER OF:

Ashish Mohan Gupta

...Appellant

Versus

Hind Motors Ltd. (In Liquidation)

& Ors. through its Liquidator

...Respondent

Present:

For Appellant: Mr. Sandeep Bajaj and Ms. Aakanksha Nehra, Advocates.

**For Respondent: Mr. Krishan Vrind Jain, Mr. Kamal Satija and
Mr. Savar Mahajan, Advocates for R-1, 2 & 3.**

O R D E R
(Virtual Mode)

25.08.2020 It comes to be known that on 10th January, 2020, this Appellate Tribunal, in the Instant Appeal had passed the following order:

“In the case of winding up, ‘Liquidator’ being at the helm of the affairs and it does not agree to reach agreement or arrangement of Section 230 of the Companies Act, 2013, the question arises for consideration is as to whether, in such case, any member or a creditor can independently move an application under Section 230 of the Companies Act. Otherwise also, while the company is under liquidation, whether except a ‘Liquidator’, any person such as member or creditor can move an application, without the permission of the ‘Liquidator’.

*Learned counsel for the Appellant refers to a decision of this Appellate Tribunal in ‘**Rasiklal S. Mardia vs. Amar Dye Chem &***

Ors. in 'Company Appeal (AT) No. 337 of 2018' disposed of on 8th April, 2019. However, it appears that the said judgment is contrary to another judgment of a co-ordinate Bench of this Appellate Tribunal.

For the said reason, we refer the matter to the larger Bench for decision of the issue.

Post the matter before the Hon'ble Chairperson for fixing the Bench and if required, the date for hearing 'on Admission (Fresh Case)' preferably, if possible on **27th January, 2020.**"

In view of the above, the office of the Registry is directed to place this matter before Hon'ble Acting Chairperson for obtaining necessary orders in the subject matter in issue.

[Justice Venugopal M.]
Member (Judicial)

[Mr. Balvinder Singh]
Member (Technical)

Basant B/kam /