

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

**Company Appeal (AT) No. 08 of 2020**

**IN THE MATTER OF:**

**Ashish Mohan Gupta**

**...Appellant**

**Versus**

**Hind Motors Ltd. (in Liquidation) & Ors.**

**...Respondents**

**Present:**

**For Appellant :**

**Mr. Sandeep Bajaj, Ms. Aakanksha Nehra, Ms. Aditi  
Pundhir, Advocates**

**O R D E R**

**10.01.2020** 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 8<sup>th</sup> 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 **27<sup>th</sup> January, 2020**.

[Justice S.J. Mukhopadhaya]  
Chairperson

[ Justice Bansi Lal Bhat ]  
Member (Judicial)

/ns/sk/

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