

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 214 of 2017

IN THE MATTER OF:

**Horseshoe Entertainment & Hospitality
Private Limited**

...Appellant

Versus

The Comedy Store Limited

...Respondent

Present:

For Appellant : **Mr. Alishan Naqvee, Ms. Rupal Bhatia, Mr. Saurabh
Chaturvedi and Mohd. Kamran, Advocates**

For Respondent : **Mr. Puneet Singh Bindra and Ms. Akshita Gupta,
Advocates**

O R D E R

19.07.2018 One of the question involved in this appeal is whether for filing an application under Section 10 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the 'I&B Code') the Board of Director of 'Corporate Debtor' is required to place the matter before the shareholders and creditors in its Extra ordinary General Meeting (EoGM) or Annual General Meeting (AGM).

Similar issue fell for consideration before this Appellate Tribunal in "*Gaja Trustee Company Pvt. Ltd. & Ors. Vs. Haldia Coke and Chemicals Pvt. Ltd. & Ors. – Company Appeal (AT) (Insolvency) NO. 137 of 2017*" wherein this Appellate Tribunal by judgment passed today (19th July, 2018) held that Board of Directors is required to place the matter before the shareholders and creditors and to take its approval for filing application under Section 10 of the I&B Code.

Learned counsel appearing on behalf of the respondent submits that law has also been amended wherein similar provisions has been made.

In view of the decision of this Appellate Tribunal in *Gaja Trustee Company Pvt. Ltd. & Ors.* (Supra) and recent amendment, learned counsel for the appellant sought permission to withdraw the appeal to enable the Board of Directors to place the matter before the shareholders in EOGM and AGM, if they intend to file another application under Section 10 of the I&B Code. Liberty is granted but without liberty to challenge the same very impugned order.

The appeal stands disposed of as withdrawn.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

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