

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

**Company Appeal (AT) (Insolvency) No. 306 of 2020**

**IN THE MATTER OF:**

**K. Bapaiah**

**...Appellant**

**Versus**

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

**...Respondents**

**For Appellant: Mr. Abhijeet Sinha and Mr. Gautam Singh, Advocates**

**For Respondent: Mr. Gaurav Roy, Advocate for R-1**

**Mr. Yogesh M., Advocate**

**Ms. Bhavana Duhoon and Ms. Santhanam Rajashree,  
Advocates for Liquidator- R2**

**O R D E R**

**12.03.2020** Heard Learned Counsel for the Appellant and Learned Counsel for Respondent No. 1 as well as Learned Counsel for Respondent No. 2. Learned Counsel for the Appellant is submitting that the matter was before the Adjudicating Authority on 31<sup>st</sup> December, 2019 as the consent of Liquidator S. Rama Chandran had not been received to act as liquidator and the Tribunal had sought name of another Insolvency Professional to be appointed as Liquidator as can be seen from Para 24 of that order dated 31<sup>st</sup> December, 2019 (Annexure 3).

It is stated that subsequently name of Ms. Santhanam Rajashree, Respondent No. 2 was received and the Adjudicating Authority directly proceeded to pass Liquidation Order which is the Impugned Order dated 11<sup>th</sup> February, 2020. Learned Counsel states that the Appellant had already entered into arrangement with the Respondent No. 1 the only Financial Creditor of the Corporate Debtor to pay all the dues of Respondent No. 1 and for the purpose

two Applications were filed as at Page 67 (Annexure 4) and as at Page 74 (Annexure 5) requesting to take on record proposed settlement. The learned Counsel for Respondent No.1 also agrees that these developments had taken place for which there is affidavit filed by the Respondent as at Page 92 (Annexure 7).

It is stated by the Learned Counsel for the Appellant that in spite of such Affidavit from Respondent No. 1 and such Applications filed by the Appellant, without giving opportunity the Adjudicating Authority proceeded to pass the Impugned Order of Liquidation.

It is stated that the M.A. No. 463 of 2019 for Liquidation had been earlier filed by then Resolution Professional Mr. Gopal Krishna Raju who the Respondent No. 1 wanted to get removed and had filed Application No. 732 of 2019. Learned Counsel for the Appellant and Respondent No. 1 both state that such Application was filed to get the said Resolution Professional removed and as the such Resolution Professional had filed the Application for Liquidation, the Adjudicating Authority had called for name from IBBI as can be seen from the earlier Order as at Annexure 3 dated 31<sup>st</sup> December, 2019.

Learned Counsel for Liquidator states that apart from Respondent No. 1 there were four other Financial Creditors. She states that the Liquidator has invited claims and the last date for receipt of the claims is 15<sup>th</sup> March, 2020.

Respondent Nos. 1 & 2 may file Reply within ten days. As it is stated that Twenty-One of the Employees of the Corporate Debtor have been terminated, and relieved, we direct that till next date, the Liquidator may not terminate any

more services and do not dispose of movable and immovable property.

List the Appeal 'For Admission (After Notice)' on **26<sup>th</sup> March, 2020.**

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

[Justice Anant Bijay Singh]  
Member (Judicial)

[Kanthi Narahari]  
Member (Technical)

Basant B./md /