

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

**Review Application No.11 of 2020 in  
Company Appeal (AT) (Insolvency) No. 1082 of 2019**

**IN THE MATTER OF:**

**Ashok Raja**

**...Appellant**

**Versus**

**Arun Kumar Gupta & Anr.**

**...Respondents**

**Present:**

**For Appellant: Mr. Mohit Chaudhary and Ms. Garima Sharma,  
Advocates.**

**For Respondents:**

**ORDER**  
**(Through Virtual Mode)**

**19.11.2020:** This Review Application No. 11 of 2020 in Company Appeal (AT) (Insolvency) No. 1082 of 2019 has been filed as a sequel to order passed by the Hon'ble Apex Court on 7<sup>th</sup> February, 2020 in Civil Appeal No. 82/2020 by virtue whereof the appeal has been disposed of with observation that since only question of cost/fee has been agitated in the appeal, the Appellant is directed to file review before NCLAT on this limited aspect.

It appears that Contempt Case No. 6/2020 has been filed by the Resolution Professional who figures as Respondent No. 2 in the Review Application. The Contempt matter has been kept in abeyance by order of this Appellate Tribunal dated 12<sup>th</sup> November, 2020. A bare look at the Contempt Application shows that the Resolution Professional has alleged non-compliance of the decision rendered by this Appellate Tribunal on 11<sup>th</sup> December, 2019 as regards payment of Rs.3.3 Lakh by the Appellant to her towards fee and actual expenses incurred. However, it is not specified in the Contempt Application

*Cont'd..../*

whether the Resolution Professional has refunded the amount of Rs.3 Lakhs to the Respondent-Operational Creditor - 'Mr. Arun Kumar Gupta'. Be that as it may, it appears that the presence of Respondents is essential to dispose of the instant application. We say so because, while disposing off the appeal, this Appellate Tribunal while setting aside the order of admission of application under Section 9 of the I&B Code fixed the fee of the IRP/RP at Rs.2.5 Lakhs taking into consideration that the IRP/RP functioned for about two and a half months and together with expenses incurred, the resolution costs were allowed at Rs.3.3 Lakhs. Difficulty in application of Regulation 33 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations 2016 arises as no Committee of Creditors is said to have been constituted and in absence of its constitution question of insolvency resolution costs being ratified by the Committee of Creditors does not arise.

Let notice be issued to Respondent No. 1 and 2 in the Review Application. Appellant to provide mobile Nos./e-mail address of the Respondents. Notice be issued through e-mail or any other available mode. Requisites along with process fee be filed within three days.

List the Review Application 'for admission (after notice)' on **8<sup>th</sup> December, 2020**. The Contempt mater be also tagged with the Review Application.

**[Justice Bansi Lal Bhat]**  
**Acting Chairperson**

**[Justice Venugopal M.]**  
**Member (Judicial)**

*am/gc*