

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 1069-1070 of 2019

IN THE MATTER OF:

Yogsh Mehra

...Appellant

Versus

Vaayu Infrastructure LLP. & Anr.

...Respondents

Present

For Appellant: Mr. Amit Sibal, Senior Advocate with Ms. Varsha Banerjee and Ms. Rekha Dwivedi, Advocates.

For Respondents: Mr. Satendra K. Rai, Advocate for Respondent No.1.

Mr. Shailen Shah, Resolution Professional.

Mr. R. Sudhinder and Ms. Ekta Bhasin, Advocates for Respondent No.2.

O R D E R

30.01.2020 On 17th October, 2019, this Appellate Tribunal noticed the following submission: -

“Learned counsel for the Appellant submits that the claim amount shown in Form-1 (Application under Section 7) is also part of the claim in another ‘Corporate Insolvency Resolution Process’. Therefore, simultaneously for the same amount of claim the ‘Corporate Insolvency Resolution Process’ cannot be initiated.

Let notice be issued on Respondents. Mr. Nirav Shah, Advocate appears on behalf of 1st Respondent. Ms. Ekta Bhasin, Advocate appears on behalf of 2nd Respondent. Learned counsel for the Appellant will serve a copy of the paper book on each of them in the course of day. The 1st and 2nd Respondent may file reply-affidavit

along with Vakalatnama within 10 days. Rejoinder, if any, be filed within 2 weeks' thereof

Post the case 'for admission (after notice)' on 4th November, 2019.

In the meantime, the 'Interim Resolution Professional' will ensure that the company remains a going concern and will take assistance of the (suspended) Board of Directors and the officers/Directors/employees. The person who is authorised to sign the bank cheques may issue cheques but only after approval of the 'Interim Resolution Professional'. The bank account of the 'Corporate Debtor' be allowed to be operated for day-to-day functioning of the company such as for payment of current bills of the suppliers, salaries and wages of the employees'/workmen electricity bills etc."

Pursuant to the notice, Respondent Nos.1 and 2 have filed replies.

Vejas Power Projects Limited ('Financial Creditor') is one of the Group Company of IL&FS, in respect of which certain order was passed by this Appellate Tribunal on 1st October, 2018 in Company Appeal (AT) No.346 of 2018 and 347 of 2018. In the circumstances, before passing any final order, it will be desirable to hear Union of India through Secretary, Ministry of Corporate Affairs, 5th Floor, 'A' Block, Shastri Bhawan, New Delhi – 110001 and Infrastructure Leasing and Financial Services Ltd., IL&FS Financial Service Centre, Plot No.C-22, G Block, Bandra Kurla Complex, Bandra East, Mumbai. The Appellant is allowed to implead them as party Respondent Nos.3 and 4. Necessary corrections, be made in the cause-title and other pages of the paper-book.

Let notice be issued to newly added Respondent Nos.3 and 4. Requisites along with process fee be filed by 31st January, 2020. If the Appellant provides email addresses of the Respondents, let notice be issued through email. Dasti services is permitted. The Appellant may also serve a *Company Appeal (AT) (Insolvency) No. 1069-1070 of 2019*

copy of paper-book along with copy of this order on Mr. Sanjay Shourie, Director-MCA (Legal) and Mr. Ramji Srinivasan, Senior advocate who generally appears with Ms. Gauri Rasgotra on behalf of IL&FS in the aforesaid Company Appeals. Respondent Nos.3 and 4 may file their reply affidavits by 14th February, 2020 and may also state the developments as may have taken place.

Mr. Abhinav Vashisth, Senior Counsel with Ms. Rekha Dwivedi is also allowed to file intervention petition on behalf of Radhika Mehra, in view of the liberty given in Company Appeal (AT) (Insolvency) No.121 of 2020 within a week.

Post the Appeal 'for admission' on **4th March, 2020**.

[Justice S. J. Mukhopadhaya]
Chairperson

[Shreesha Merla]
Member (Technical)

Ash/GC