

upon the Judgment in the matter *Dr. Vishnu Kumar Agarwal Vs. M/s Piramal Enterprises Ltd.* [Company Appeal(AT)(Insolvency) Nos. 346 & 347 of 2018 dt. 08.01.2019] set aside the claim of the Appellant in Corporate Insolvency Resolution Process on the basis that it is repetition of claim which already stands admitted in another process.

Learned Counsel is pointing out co-extensive rights against the Principal Borrower as well as Corporate Guarantor under Section 128 of the Contract Act and is pointing out that Section 60(3) amendment was brought into effect from 06.06.2018 and at the same time, Section 5(A) was added in section 5 of IBC to define Corporate Guarantor. It is stated that by same amendment Section 14(3) IBC excluded proceeding against the Corporate Guarantor from the effect of moratorium. It is argued that it shows that the Legislature does not want to keep the claim against the Corporate Guarantor in abeyance and thus it is argued that on the basis of Judgment of this Tribunal, the right cannot be kept pending or in abeyance. Learned Counsel states that although the Judgment in the matter of *Dr. Vishnu Kumar Agarwal Vs. M/s Piramal Enterprises Ltd.* was passed subsequently in January, 2019 still it dealt with the fact and situation as was existing before the above amendment pointed out by the learned Counsel. Learned Counsel for the Appellant states that these amendments had come into force w.e.f. 06.06.2018 but were not considered in the Judgment in the matter of *Dr. Vishnu Kumar Agarwal Vs. M/s Piramal Enterprises Ltd.*

Learned Counsel for the Respondent submitted that amendment referred by the learned Counsel for the Appellant would not affect in any

manner the applicability of Judgment in the matter of *Dr. Vishnu Kumar Agarwal Vs. M/s Piramal Enterprises Ltd.*

We find the rival submissions need consideration. We request the Registry for placing this matter before the Chairperson to consider if this matter should be placed before a Division Bench or Bench of three Hon'ble Judges.

Tentatively post the matter on **7th February, 2020.**

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

(Kanthi Narahari)
Member(Technical)

Akc/Md