

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

Company Appeal (AT) (Insolvency) No. 159 of 2021

In the matter of:

Nimitaya Infotech Pvt. Ltd. And Ors.

....Appellants

Vs.

**COX & Kings Ltd. Through its Resolution
Professional Ashutosh Agarwala**

....Respondents

Present:

Appellants: Mr. RK Gupta, Mr. Swapnil Gupta, Ms. Swaralipi Deb Roy, Mr. Manoranjan Nayak, Advocates.

Respondents: Mr. Nirman Sharma, Mr. Akash Menon, Mr. Pulkitesh Dutt Tiwari, Ms. Bency Ramakrishnan, Advocates

ORDER

(Through Virtual Mode)

05.03.2021: The issue raised in this appeal filed against the impugned order dated 25th January, 2021 passed by the Adjudicating Authority (National Company Law Tribunal), Mumbai Bench, allowing the Appellant No.1 to file claim in respect of the unpaid rent from 25th March, 2020 to 28th July, 2020 as Operational Creditor with direction to Resolution Professional to collate the same and classify it in terms of the liquidation mechanism under Section 53 is that the impugned order runs parallel to the judgment rendered by this Appellate Tribunal in **“MV Projects vs. Divya Jyoti Sponge Pvt. Ltd.”** decided on 24th April, 2019 which holds that the supplying of goods during the period of Corporate Insolvency Resolution Process (CIRP) to keep the company as a going concern would constitute Resolution Process Costs.

Issue Notice upon Respondent. Notice on behalf of Respondent No.1 is waived and accepted by Mr. Nirman Sharma, Advocate. No further notice need be issued to him. Insofar as Committee of Creditors is concerned, it appears to be an unnecessary party and we direct its deletion from the array of Respondents. The Appellant may carry out necessary correction and amendment in the memo of appeal.

Contd/-.....

Respondent No.1 may file reply-affidavit within 10 days. Rejoinder, if any, be filed within 10 days thereof. Short written submissions not exceeding three pages may also be filed by the parties along with the pleadings supported by the relevant case law.

List the appeal 'for admission (after notice)' on 7th April, 2021 before Court No.III.

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

**[Dr. Ashok Kumar Mishra]
Member (Technical)**

AR/g