

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 123 of 2020

IN THE MATTER OF:

Ashish Dynaneshwar Mahajan

...Appellant

Vs.

Samarth Lifters Pvt. Ltd. & Anr.

...Respondents

Present: For Appellant: - Mr. Krishnendu Datta, Mr. Navneet Gupta, Ms. Shilpa Thakur and Mr. Devmani Bansal, Advocates.

For Respondents:- Mr. Indraprateek Naidu, Advocate. Mr. Raj, Mr. Raghav Shankar, Ms. Ekta Bhasin and Ms. Shreya Singh, Advocates for Intervenors.

O R D E R

23.01.2020— Learned counsel for the Appellant submits that the Application under Section 12A was filed by the Promoters under wrong impression. In fact, the Appellant settled the matter with the Respondent- 'Samarth Lifters Pvt. Ltd.' prior to the constitution of the 'Committee of Creditors' on 6th September, 2019. It is submitted that the 'Committee of Creditors' has not yet been constituted.

Mr. Indraprateek Naidu, Advocate appears on behalf of Respondent- 'Samarth Lifters Pvt. Ltd.'. Some other counsel also wants to intervene on behalf of other 'Operational Creditors'.

Contd/-.....

Let notice be issued on 2nd Respondent by speed post. Requisite along with process fee, if not filed, be filed by 24th January, 2020.

Learned counsel for the Appellant will serve a copy of the paper book on counsel for the 1st Respondent in the course of day. 1st Respondent may file reply-affidavit along with Vakalatnama within a week.

Other 'Operational Creditors' are allowed to file common intervention application by 27th January, 2020 if they intend to oppose the prayer for exercising powers under Rule 11 of the NCLT/NCLAT Rules, 2016.

Post the Appeal 'for admission (after notice)' on 12th February, 2020 within five cases.

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 persons who are working will perform their duties including the paid Directors. The person who is authorised to sign the bank cheques may sign cheques only after authorisation of the 'Interim Resolution Professional' with counter signature of the 'Interim Resolution Professional' at the back side of the cheques. In such case,

the Bank shall release the payment. The 'Interim Resolution Professional' will place this order before the Banks, in which accounts of 'Corporate Debtor' are maintained. The Bank Account(s) 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.

(Justice S.J. Mukhopadhaya)
Chairperson

(Shreesha Merla)
Member(Technical)

Ar/RR