

**National Company Law Appellate Tribunal, New Delhi**  
**Principal Bench**

**COMPANY APPEAL (AT) (Insolvency) No. 786of 2020**

[Arising out of Order dated 28.07.2020 passed by National Company Law Tribunal, Ahmedabad Bench, Ahmedabad Court-2 in I.A. 90 of 2020 in I.A. No.691 of 2019 in C.P. (I.B) No. 397/NCLT/AHM/ 2018]

**IN THE MATTER OF:**

**Anil Kumar**  
**Ex Interim Resolution Professional (IRP)**  
**Of M/s. KSL & Industries Limited**  
**303, Chandra GHS Limited, Golf Course Road,**  
**Plot No. 64, Sector 55,**  
**Gurgaon, Haryana- 122011,**  
**IBBI REG No.-IBBI/IPA-001/IP-P000144/**  
**2017-18/10308**

**.....Appellant**

**Versus**

**1. Allahabad Bank**  
**2<sup>nd</sup> Floor, Allahabad Bank Building,**  
**37, Mumbai Samachar Marg,**  
**Fort, Mumbai-400001.**

**.....Respondent-1**

**2. M/s. KSL & Industries Ltd.**  
**Through Mr. Kiran Shah,**  
**IRP/RP of KSL & Industries Ltd.**  
**608, Sakar-1, Near Gandhigram**  
**Railway Station, Opp. Nehru Bridge,**  
**Ashram Road, Ahmedabad,**  
**Gujarat-380009.**  
**IBBI REG No.-IBBI/IPA-001/IP-P00480/**  
**2017-18/10868.**

**.....Respondent-2**

**3. M/s. Charms Holding Pvt. Ltd.**  
**At Post Subhalaxmi Complex**  
**Bldg. C/1/103, Amlsi Silvassa,**  
**D& H- 396230.**

**.....Respondent-3**

**4. M/s. Abhinandan Multitrade Pvt. Ltd.**  
**Office No.-24, Mezzanine Floor,**

**Swadeshi Mill Compound, Plot No. 80/84,  
Opera House, J.S.S Road, Girgaon,  
Mumbai-400004.**

**.....Respondent-4**

**5. M/s. Anukaran Consultancy Pvt. Ltd.  
25, Floor-2, Plot-59/61, Arsiwala Mansion,  
Nathalal Parikh Marg, Colaba,  
Mumbai – 400005.**

**.....Respondent-5**

**Appellant: Mr. Rajendra Beniwal, Mr. Chirag Gupta, Mr. Kumar  
Sumit & Mr. Anil Kumar (RP), Advocates.**

**Respondent: Ms. Honey Satpal, Ms. Niti Arora Sachar &  
Mr. Samriddh Bindal, for R-1.  
Mr. Kiran Shah (CA), Mr. Siddharth Tandon &  
Mr. Saurabh Kalia, for R-2.**

## **J U D G E M E N T**

### **Anant Bijay Singh (J)**

1. The Instant Appeal has been filed on behalf of the Appellant- Anil Kumar Ex. Interim Resolution Professional (RP) of M/s. KSL & Industries Limited, Gurgaon, Haryana being aggrieved and dissatisfied with the Order dated 28.07.2020 passed by the Hon'ble National Company Law Tribunal, Ahmedabad Bench, Court No. 2 (Adjudicating Authority) in I.A No. 90/ 2020 in I.A. 691 of 2019 in C.P. (I.B.) No. 397/NCLT/AHM/2018, whereby and where under in I.A. No. 691 of 2019 filed in C.P. (I.B.) No. 397 of 2018 filed by Allahabad Bank (Respondent No. 1) under Section 60 (5) of the Insolvency & Bankruptcy Code, 2016 **(in short "IB Code")**the Learned Tribunal have

appointed a new Interim Resolution Professional, replacing the Appellant herein. The Bench while exercising its power under 'Rule 11' of NCLT Rule, 2016 allowed in Interlocutory Application and appointed Mr. Kiran Shah as a new IRP/ RP in the CIRP proceedings.

2. The number of facts of this case is as follows: -

- (i) The C.P. (I.B.) No. 397 of 2018 was filed under Section 7 of Insolvency & Bankruptcy Code, 2016 by way of M/s. Abhinandan Multitrade Pvt. Ltd. / Respondent No. 4 which was admitted under Order dated 06.09.2019 and whereby the Appellant was appointed as Interim Resolution Professional.
- (ii) After Appellant took over the charge of IRP and made public announcement and thereafter Committee of Creditors (**in short "CoC"**) was constituted.
- (iii) The first CoC Meeting was held on 16.10.2019, the IRP provided list of Financial Creditors along with the voting shares for each credit or as prepared by him.
- (iv) List submitted by the IRP reveals that out of 37 Creditors, only 7 were Financial Institutions and 30 were Non-Financial Institutions and Corporate Debtors.
- (v) The total voting shares of Financial Institutions in CoC was 36.53% whereas the total voting share of Non-Financial Institutions/ Corporates was 63.47%.

- (vi) The Respondent No. 1 (Allahabad Bank) with the list of Creditors and other Financial Institutions were alarmed with list of Creditors raised their concern in relation to the eligibility of the Corporates mentioned in the list of Creditors.
- (vii) Further, the Respondent No. 1 was of the view that the correct classification of Creditors is critical to the constitution of CoC.
- (viii) Respondent No. 1/ Allahabad Bank and other Creditors requested the IRP to provide clarity on whether the verification for all the Creditors who are also Non-Financial Institutions have been completed or not.
- (ix) The Appellant/ IRP responded that it is merely a provisional classification.
- (x) Respondent No. 1 and other Secured Creditors were also informed that it has not been verified whether the relevant money from the said 30 Financial Creditors have been actually received in bank account of the Corporate Debtor.
- (xi) The Allahabad Bank (Respondent No. 1) requested the IRP/ RP to provide the basis on which the claim of 30 Non-Financial Institutions were admitted and how they were classified as Financial Creditors.
- (xii) But IRP/ RP replied that the said verification of the claims was still under process.

- (xiii) The shares of secured Financial Creditors was only 36.53%.
- (xiv) Further, the case is that in view of the said situation, the whole problem has aroused with regard to the appointment of IRP/RP as no majority could be reached into appointment of IRP/RP.
- (xv) Consequently, the instant application was filed bearing No. 691 of 2020 before the Adjudicating Authority.

3. The Learned Adjudicating Authority after hearing the parties passed the following orders:-

*“11. Under such circumstances, when there is a conflict and no consensus is reached by the majority of voting share to appoint the IRP/RP so proposed by the Applicant, it is expedient to appoint an independent IRP/RP to break any kind of stalemate between the Financial Creditors. Moreover, the very object of IB Code is to complete the CIRP in the time bound manner and if the dispute with regard to the IRP will continue, in that event, the very object of the IB Code will get frustrated. The IB Code prescribes timelines for various activities of the CIRP. It is mandatory to complete a CIRP within 180 days, extendable by a one-time extension of up to 90 days [M/s. Surendra Trading Company v. M/s. Juggilal Kamlapat Jute Mills Company Limited & Ors.]*

*12. Though as per Section 7 of the IB code, the Financial Creditor has the prerogative to propose the name of the IRP/RP and thereafter, they may change it by filing an application under Section 22 of the IB Code. However, to resolve this issue and to end the stalemate between the secured and unsecured Financial Creditors, this Bench in exercise of power under Rule 11 of the NCLT Rules 2016, do hereby appoint Mr. Kiran Shah as the new IRP/RP and direct him to convene the CoC meeting and complete the CIRP as early as possible. Further, the period which is consumed in deciding this Application as well as the lockdown period i.e. from 25.03.2020 to 31.05.2020 is exempted.”*

9.

**Submissions on behalf of the Appellants**

- (i) Only one point has been raised by the Learned Counsel for the Appellant during the course of the oral arguments is that whether inherent powers prescribed under 'Rule 11' of NCLT Rule 2016 can be invoked to bypass the provisions of Section 22 and 27 of Insolvency & Bankruptcy Code, 2016 (I&B Code) and whether the Order passed by the Adjudicating Authority can be sustained in law.
- (ii) Learned Counsel for the Appellant further submitted that Section 22 of I&B Code provides for appointment of both Interim Resolution Professional as well as Resolution Professional.
- (iii) Further, it was submitted by Learned Counsel for the Appellant that Section 27 of I&B Code which is quoted hereunder: -

***"27. Replacement of resolution professional by committee of creditors. -***

*(1) Where, at any time during the corporate insolvency resolution process, the committee of creditors is of the opinion that a resolution professional appointed under section 22 is required to be replaced, it may replace him with another resolution professional in the manner provided under this section.*

*[(2) The committee of creditors may, at a meeting, by a vote of sixty-six per cent. of voting shares, resolve to replace the resolution professional appointed under section 22 with another resolution professional, subject to a written consent from the proposed resolution professional in the specified form.]*

*(3) The committee of creditors shall forward the name of the insolvency professional proposed by them to the Adjudicating Authority.*

*(4) The Adjudicating Authority shall forward the name of the proposed resolution professional to the Board for its confirmation and a resolution professional shall be appointed in the same manner as laid down in section 16.*

*(5) Where any disciplinary proceedings are pending against the proposed resolution professional under sub-section (3), the resolution professional appointed under section 22 shall continue till the appointment of another resolution professional under this section.”*

(iv) Further, it was submitted that none of the powers under Section 22 & 27 were exercised rather the Adjudicating Authority have passed the Impugned Order invoking power under ‘Rule 11’ of the NCLT. So, the Impugned Order passed by the Hon’ble Adjudicating Authority cannot be sustain by law and fit to be set aside and the Appeal be allowed.

10.

**Submissions on behalf of the Respondent No. 1**

(i) Respondent No. 1- Allahabad Bank (now Indian Bank) have also filed his Reply Affidavit during the course of the arguments. Respondent No. 1 referred to the Order dated 17.09.2020 issuing Notice Respondent No. 1 & Respondent No. 2 formulated the following questions.

*“Issue raised in this Appeal is that the expressed provision of law under I&B Code has been over ruled and Rule 11 of NCLT Rules, 2016 has been invoked to substitute the Appellant by another person as IRP which is legally unsustainable.”*

(ii) Learned Counsel for the Respondent No. 1 further referred to the provisions of Rule 11 of National Company Law Tribunal Rules, 2016 (“NCLT Rules, 2016) which is reads hereunder ‘Rule 11’

inherent powers. “Nothing in these rules shall be deemed to limit or otherwise effect inherent powers of the Tribunal to make such Order “as may be necessary for the meeting the end of justice” of the inherent abuse of process of Tribunal.”

- (iii) Learned Counsel for the Respondent No. 1 further submitted that from the perusal of the Impugned Order it transpires that the matter was listed before the NCLT 14 times since the first date of hearing i.e. on 15.11.2019 and finally was reserved on 20.03.2020 and the Impugned Order was delivered on 10.07.2020.
- (iv) Learned Adjudicating Authority have taken note of the fact that CP (IB) No. 397 of 2018 was filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 (“IB Code”) by M/s. Abhinandan Multitrade Pvt. Ltd. & Anr. Which was admitted on 06.09.2019 whereby the Applicant was appointed as IRP.
- (v) Further, the 1<sup>st</sup> Meeting of CoC was held on 16.10.2019 and the Appellant who was the IRP provided the list of Financial Creditors along with the voting share for each credit or as prepared by him.
- (vi) It was further submitted by the IRP that out of 37 Creditors, only 7 were Financial Institutions and 30 were Non-Financial Institutions and Corporates and the total voting share of Financial Institution in CoC was 36.53% and total voting share of Non-Financial Institutions/ Corporates was 63.47%.



- (vii) The Respondent No. 1 along with other Creditors sought verification of all the Creditors who are Non-Financial Institutions and further inform whether that verification is complete or not. have been completed or not.
- (viii) The Applicant herein inform that it has not been verified. The process of verification is going and further he has not verified that money from 30 Financial Creditors have actually been received in the bank account or not.
- (ix) It was submitted that one of the unsecured creditors had made an identical prayer of convening the meeting of CoC for appointment of Resolution Professional. However, the Learned NCLT in its Order dated 10.07.2020 passed the following Orders:-

*“....During the pendency of I.A. No. 691/2019, various applications have been filed by the Unsecured Financial Creditors, intervening with regard to the appointment of the RP. However, during the pendency of these IAs, the matter was exhaustively heard, with regard to the issue of stalemate of appointment of RP. Meanwhile, there was a Lockdown due to Covid-19, consequent upon which, all the applications remained pending. On the other hand, on perusal of the records, it is found that the CIRP period of 180 days expired on 4<sup>th</sup> March 2020 and, thereafter, the same was extended for further 90 days, the said period has already been expired.*

*Ld. Lawyer Mr. Nandish Chudgar submitted that a direction may be given to convene meeting of CoC for appointment of RP.*

*Under such circumstances, if the matter will be sent for convening the meeting of Committee of Creditors, then there is every likelihood of stalemate between secured financial creditor and unsecured financial*

*creditor as reflected from various IAs filed in recent past. In that event, every object of the IBC will get frustrated and the CIRP cannot be concluded within the stipulated time. In view to save the time, it is expedient to pass appropriate order in the IA No. 691/2019, the interest of justice, instead of lingering further for further argument.  
Heard the learned lawyers for both sides.*

- (x) Learned Counsel for the Respondent No. 1 further submitted that as the timeline for completion of CIRP proceedings was reaching fast and in view of the stalemate between the Secured and Unsecured Creditors the CoC Meeting could not be held and there is likelihood that CIRP proceeding will expire without holding a Meeting of CoC.
- (xi) The Learned Counsel for the Respondent No. 1 further submitted that having no option, the Respondent No. 1 had filed an Application before the Adjudication Authority with a prayer to remove the Appellant and to appoint a fresh IRP/RP.
- (xii) The Learned Adjudicating Authority after hearing the parties and facts in this case invoked under 'Rule 11' and passed the Impugned Order removing the Appellant and appointed Mr. Kiran Shah as new IRP/RP and there is no illegality in the Order. So, the Appeal is fit to be dismissed.
- (xiii) The Respondent No. 2 - M/s & Industries Ltd. Through Mr. Kiran Shah, IRP/RP of KSL & Industries Ltd. has also filed his Reply Affidavit and submitted that after his appointment as Resolution

Professional he held fourth meeting of the Committee of Creditors on 13.08.2020 and in this meeting also the majority of the Secured Financial Creditor had again created a stalemate with regard to their voting shares.

- (xiv) In the meanwhile, the Appellant herein submitted that the IRP as a person and moved before the NCLT filed the Company Appeal (AT) (Insolvency) No. 786 of 2020 and challenged the Impugned Order passed by the Learned Adjudicating Authority dated 28.07.2020 and this matter was listed before this Tribunal on 17.09.2020 whereby this Hon'ble Appellate Tribunal had mentioned to maintain the status quo in the matter.
- (xv) From the perusal of the Order dated 03.11.2020 passed by this Tribunal an Interlocutory application bearing No. 2546 of 2020 was filed by the Respondent No.2 seeking clarification in respect of the interim directions dated 17<sup>th</sup> September, 2020 directing status quo to be maintained.
- (xvi) This Tribunal passed the following order which is hereunder:-

*“Since the prayer in the appeal is to set aside appointment of Mr. Kiran Shah as the Resolution Professional of the Corporate Debtor and Mr. Kiran Shah is stated to be discharging functions as Resolution Professional, it is clarified that the status quo is only in regard to his continuance as Resolution Professional and the same does not have any bearing on continuation of the ‘CIRP’ proceedings. I.A. is accordingly disposed of”.*

Based on this submission, Learned Counsel for the Respondent No. 1 submitted that there is no illegality in the Impugned Order and accordingly there is no merit in the Appeal and the Appeal is fit to be dismissed.

- (xvii) Resolution Professional was also directed to file status quo during course of the hearing and they file the status report on 23.06.2021. The Status Report indicates that no sooner he was appointed that Resolution Professional in the case by NCLT Ahmedabad Bench on 28.07.2020 and we obtained the order on 31.07.2020.
- (xviii) After hearing the Learned Counsel for the Appellant and Learned Counsel for the Respondents in this case Status Report was called from Respondent No. 2 on 23.06.2021 in a seal cover.
- (xix) On 05.07.2021 Learned Counsel for the Parties were further heard and the Status Report was further submitted by Learned Counsel for the Respondent No. 2 in a seal cover and it was opened in the Court and from the perusal of the Status Report which reads as under:-

*“3. Immediately after obtaining the copy of the order on 31.07.2020, the present RP had communicated with erstwhile Interim Resolution Professional (IRP) from 31.07.2020 itself and thereafter with the Suspended Management of the Corporate Debtor*

*(since the erstwhile IRP failed to have complete control over the documents and records of the Corporate Debtor) requesting various data and documents as required for conducting the CIRP in respect of the Corporate Debtor. Although the list of data and documents, which was sought for by the present RP was exhaustive, the same was neither furnished by the erstwhile IRP nor furnished by the Suspended Management in due and timely manner. Also, it was very much essential for smooth conduct of the CIRP and it was quite imperative for the present RP to have those data and documents in order to conduct the CIRP in timely and efficient manner. However, the erstwhile IRP was not prompt and showed gross negligence in sharing the data and documents and that he had shared certain data in piecemeal manner and for which the present RP had to continuously pursue him for receiving the same. The delay in sharing of the data has caused disruptions in conducting the CIRP. Moreover, the erstwhile IRP had shared information pertaining to only five properties owned by the Corporate Debtor. However, after taking the possession of the five properties in the name of the Corporate Debtor and that on the basis of the information shared and representative(s) appointed by the erstwhile IRP, the present RP had taken over the charge of the properties of the Corporate Debtor. Moreover, while conducting the CIRP further, it has come to the knowledge of the present RP that the Corporate Debtor has ownership*

*of certain more properties which were either not in the knowledge of the erstwhile IRP or were concealed from the present RP. This caused not only unnecessary hardship but the present RP had to incur additional efforts and expenditure for taking possession of those properties as he had to make fresh arrangements for the same.*

*4. After receiving communications from erstwhile IRP, the present RP had immediately traveled to Silvassa, Dombivli, Bhiwandi, Kalmeshwar and Nagpur for taking the possession of the five properties so intimated by the erstwhile IRP. It is pertinent to mention that later on, it came to the knowledge of the present RP that the erstwhile IRP had mentioned the representative(s) of the Suspended Management and certain employees of the Corporate Debtor as his representatives and hereby, misguided the present RP and accordingly, the handover of those properties was done by the representative(s) of the Suspended Management and certain employees of the Corporate Debtor instead of the erstwhile IRP or his representative(s).*

*5. The Corporate Debtor is having total 11 properties at 6 different locations to the extent of the information available with the present RP till date. The Corporate Debtor is also having a subsidiary company and the said company is also having a manufacturing unit at Kalmeshwar in the vicinity of Nagpur.*

*6. During the tenure of the erstwhile IRP, the erstwhile IRP had called total 3 (Three) meetings of the Committee of Creditors out of which third meeting could not be held owing to the stay order of the Hon'ble Adjudicating Authority. After the appointment of the present Resolution Professional of the Corporate Debtor, the present RP has called, convened and conducted total 5 (Five) meetings of the Committee of Creditors till date. During those meetings, various matters and issues were discussed and voted upon; which include approval of the remuneration and expenses by the Resolution Professional, appointment of professionals, publication of Form G for inviting Expression of Interest, approval of parameters and criteria for the Prospective Resolution Applicants, discussion on Information Memorandum, exclusion of CIRP period on account of litigation/ legal proceedings as well as lockdown and other restrictions due to global pandemic i.e., COVID-19, etc.*

*10. The present RP had duly published the Invitation for Expression of Interest in Form G after the approval from the members of the Committee of Creditors. The present RP had received Expression of Interest/ applications from two Prospective Resolution Applicants after which the present RP had verified their eligibility to be the Resolution Applicant based on the provisions of the Insolvency and Bankruptcy Code, 2016 and Regulations made thereunder and also as per the eligibility criteria as approved by the*

*Committee of Creditors. Later on, one of the Prospective Resolution Applicants had withdrawn its Expression of Interest/ application conveying its inability due to COVID – 19 pandemic.*

*11. The present RP had received the resolution plan from the only remaining Prospective Resolution Applicant. After reviewing the resolution plan so submitted by the said Prospective Resolution Applicant, the present RP had raised queries and asked for certain clarifications and modifications in the resolution plan in order to make the same a “Compliant Resolution Plan”. During the meeting with the Prospective Resolution Applicant in respect of their resolution plan, the present RP had discussed and explained the provisions of the Insolvency and Bankruptcy Code, 2016 and Regulations made thereunder and their implications at length for preparation and submission of the “Compliant Resolution Plan”.*

*12. The present RP had filed applications for two instances before the Hon’ble Adjudicating Authority i.e., National Company Law Tribunal, Ahmedabad Bench, Ahmedabad for exclusion of certain period from the CIRP period on account of period consumed in litigation/legal proceedings as well as lockdown and other restrictions imposed due to global pandemic i.e., COVID-19 whereby the Hon’ble Adjudicating Authority was pleased to exclude a period of 233*



*days for the first instance and a period of 121 days for the second instance.*

*13. The present RP has also filed an application before the Hon'ble Adjudicating Authority i.e., the Hon'ble National Company Law Tribunal, Ahmedabad Bench, Ahmedabad against the Suspended Management as well as the erstwhile IRP of the Corporate Debtor under the provisions of section 19 read with section 60 (5) of the Insolvency and Bankruptcy Code, 2016 on account of their non-cooperation. In addition to the same, the present RP has appeared, attended and dealt with various other matters filed before the Hon'ble Adjudicating Authority i.e., Hon'ble National Company Law Tribunal, Ahmedabad Bench, Ahmedabad.*

*14. The present RP has assisted to complete the Transaction Audit which was conducted by the firm, namely, M/s. Chaturvedi and Chaturvedi, Chartered Accountants, who were appointed to review and report on the avoidance transactions in terms of the Insolvency and Bankruptcy Code, 2016.*

*15. The present RP had also conducted various meetings and held multiple discussions with the major Lease Holder of the Corporate Debtor – PVR Limited and negotiated terms and conditions for fresh leave and license agreement which contributes to the considerable portion of the revenue of the Corporate Debtor.*

*16. It is required to apprise that during the tenure of the present RP, the significant amount of time was consumed and could not be effectively utilized due to resistance and non-cooperation of the members of the Committee of Creditors; specifically the Secured Financial Creditors by misinterpretation of the term “status quo” as mentioned by this Hon’ble Appellate Authority during the pendency of the present appeal as well as due to the lockdown and restrictions imposed from the month of February, 2021 to May, 2021 in various states throughout the country.*

*17. Despite the factual position as mentioned above, the present Resolution Professional has put all the efforts to keep the Corporate Debtor as a going concern and has made every endeavour to generate revenue and protect the assets of the Corporate Debtor.*

And also submitted that the Impugned Order be set aside.

11.

**FINDINGS**

- (i) After hearing the Learned Counsel for the Parties, after going through the Status Report submitted by Respondent No. 2 and after going through the Written Submissions filed on behalf of the Parties, we are of the considered view that so far statutory provision as contained in Section 22 of the I&B Code which contemplates appointment of Resolution Professional and further

replacement is concerned, this power can only be used when the ingredients of Section 22 is met.

- (ii) Further, so far as the provision of Section 27 of 'IB Code' is concerned it contemplates with the Replacement of Resolution Professional by CoC. This power can only be used when the ingredients of Section is met.
- (iii) In the facts of this case neither the ingredients of Section 22 & 27 of the Insolvency & Bankruptcy Code, 2016 ('I&B Code') is made out.
- (iv) So, the Learned Adjudicating Authority have rightly invoked inherent jurisdiction in the fact of this case and passed the Impugned Order.
- (v) The Learned Adjudicating Authority is conscious of the fact that the Appellant herein could not provide leadership to CIRP proceedings and further there was clash between the Secured and Unsecured Creditors and timeline for CIRP proceedings was running out.
- (vi) So, the Learned Adjudicating Authority in order to shape the CIRP proceedings on an Application under Rule 11 filed by Respondent No. 1/ Allahabad Bank, taking note of the fact that there is conflict between the Secured and Unsecured Creditors and no commencement reached by majority of voting share to appoint the

Appellant herein as IRP/RP invoked thereunder part in Rule 11 and rightly have passed the Impugned order.

- (vii) Further, from the perusal of the Status Report submitted by the Respondent No. 2- M/s LSL & Industries Ltd., through Mr. Kiran Shah on 29.06.2021, which has been discussed in detail, it reveals that substantial progress in the CIRP proceedings had been made.
  - (viii) Taking all these circumstances and also the fact that the Appellant has only argued on one question of law which was formulated by this Tribunal under this Order dated by 17.09.2020, is only about the exercise of power of Rule 11 of NCLT by the Learned Adjudicating Authority in the facts of this case.
  - (ix) We are of the considered that the Learned Adjudicating Authority have rightly exercise this power and there is no merit in the Appeal and is accordingly dismissed.
  - (x) It appears from the perusal of the record that this Instant Appeal was filed on 03.09.2020 before this Tribunal and Notices were issued on 17.09.2020 and being disposed off by Judgement dated 20.07.2021.
12. So, the period which had been spend in perusing this Appeal shall be excluded from CIRP process.
13. And the Appeal is dismissed without costs.

14. The Registry is directed to upload this Judgement on the website of this Appellate Tribunal.

15. Registry is directed to send a copy of the Judgement to the National Company Law Tribunal, Ahmedabad Bench.

**[Justice Anant Bijay Singh]**  
**Member (Judicial)**

**[Ms. Shreesha Merla]**  
**Member (Technical)**

**NEW DELHI**  
**20<sup>th</sup>July, 2021**  
*Sim.*