

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 849 of 2020

IN THE MATTER OF:

**Mohan Gems & Jewels Pvt. Ltd.
Through its Liquidator, Debashish Nanda**

...Appellant

Versus

Vijay Verma

...Respondent

Present:

For Appellant: Mr. Sumant Batra, Mr. Rahul Mendiratta and Niharika Sharma, Advocates with Mr. Debashish Nanda, Liquidator in person.

For Respondent:

**ORDER
(Through Virtual Mode)**

28.09.2020: Heard Mr. Sumant Batra, Advocate representing the Appellant. It is submitted that the impugned order is unsustainable as the same has been passed without jurisdiction and contrary to the spirit and dictum of Hon'ble Apex Court in ***"Arcelormittal India Private Limited vs. Satish Kumar Gupta and Ors. – (2018) SCC OnLine SC 1733"*** and ***"Swiss Ribbons Pvt. Ltd. & Anr. vs. Union of India & Ors. – (2019) SCC OnLine SC 73"***, wherein the Hon'ble Apex Court has emphasized that every effort must be made to avoid the death of the Corporate Debtor and every effort must be made to run the Corporate Debtor as a going concern.

Issue notice upon Respondent. Appellant to provide mobile Nos./e-mail address of the Respondents Notice be issued through e-mail or any other available mode. Requisites along with process fee be filed within three days.

It comes to fore from the impugned order that the learned Adjudicating Authority has made some observations in regard to legality of some Regulations framed by the Insolvency and Bankruptcy Board of India (IBBI), therefore, we deem it appropriate to direct arraying of IBBI as a necessary party.

Let Insolvency and Bankruptcy Board of India (IBBI) be arrayed as Party Respondent No. 2. Appellant may provide complete address, phone numbers, email address of IBBI. Notice shall also be issued to newly arrayed Respondent No. 2.

Learned counsel for the Appellant shall make necessary addition in the Memo of Parties and other relevant pages of the body of the appeal.

List the appeal 'for admission (after notice)' on **10th November, 2020**.

The impugned order shall remain stayed till next date of hearing.

[Justice Bansi Lal Bhat]
Acting Chairperson

[Justice Jarat Kumar Jain]
Member (Judicial)

am/gc