

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL, CHENNAI
(APPELLATE JURISDICTION)**

Company Appeal (AT) (CH) (Insolvency) No. 26 of 2021

**Under section 7 of the Insolvency & Bankruptcy Code, 2016
(Arising out of Order dated 19.03.2021 in IA (IBC)/131&132/2021 in CP (IB)
No.294/7/HDB /2017 passed by the Hon'ble National Company Law Tribunal,
Hyderabad Bench, Court II, Hyderabad**

IN THE MATTER OF:

Gabs Megacorp Limited

Having its registered office at:
Plot No. 5, Syedjalal Gardens,
West Maredpally, Secunderabad,
Hyderabad – 500026

Having its Corporate office at:
Plot No. 3, Raliway Colony, Picket, West Maredpally,
Secunderabad, Hyderabad - 500026

... APPELLANT

V

1. Mr. Sutanu Sinha

Liquidator for IVRCL Ltd.
Floor No. 4, Duck Back House,
41, Shakespere Sarani, Kolkata – 700017

2. IVRCL Limited

(Formerly known as IVRCL Infrastructures & Projects Ltd.)
Represented by Liquidator, Mr. Sutanu Sinha
M-22/3 RT, Vijaynagar Colony, Hyderabad – 500057

Also At:
"MIHR", 8-2-350/5/A/24/1B, Road No. 2,
Panchavati Colony, Banjara Hills,
Hyderabad - 500034

... RESPONDENTS

Present:

For Appellant : Mr. Virendar Ganda, Senior Advocate
Mr. Tanishq Mehta, Advocate

J U D G E M E N T

(VIRTUAL MODE)

Heard the Learned Senior Counsel appearing for the Appellant.

2. It is the submission of the Learned Senior Counsel for the Appellant that IA No.131 of 2021 (seeking to direct the Liquidator to

revalue the Corporate Debtor taking into account the change in financial credentials of the Corporate Debtor since 27.2.2020 until present day and IA No.132 of 2021 (seeking to allow the Application and take up the hearing of Application filed by the Appellant/Applicant seeking for revaluation of 'Corporate Debtor' on urgent basis) were simply stood adjourned for further consideration to 16.4.2021 by the 'Adjudicating Authority'(National Company Law Tribunal, Hyderabad Bench, Court II, Hyderabad on 19.3.2021 after noting down the appearance of the Learned Counsel for the Applicant and that of Liquidator/Respondent therein and as such the Appellant being aggrieved of the same has preferred the instant 'Appeal' (Comp.App.(AT)(CH)(Insolvency)No.26 of 2021), before this 'Tribunal'.

3. The stand of the 'Appellant' is that the 'Adjudicating Authority'(National Company Law Tribunal, Hyderabad Bench, Court II, Hyderabad, by merely adjourning the matter for further consideration from 19.3.2021 to 16.4.2021 has left the 'Appellant' without any remedy in the subject matter in issue and the said 'Impugned Order' requires interference of this 'Tribunal'.

4. At this juncture, this 'Tribunal' going through the 'Impugned Order' dated 19.3.2021 in IA (IBC)/131&132/2021 in CP (IB) No.294/7/HDB /2017 is of the considered view that the 'Adjudicating Authority'(National Company Law Tribunal, Hyderabad Bench, Court Hall Hyderabad, in IA (IBC)/131&132/2021 in CP (IB) No.294/7/HDB /2017 had not adjudicated the said Interlocutory Application on merits and only 'Simpliciter' after noting down the appearance of the Learned Counsel who appeared for the 'Appellant'/Liquidator' therein had adjourned the matter for further consideration on 16.4.2021 and in stricto sense of the term the 'Appellant' cannot be characterised as one who is aggrieved against the said order of the 'Adjudicating Authority'(National Company Law Tribunal, Hyderabad Bench, Court II, Hyderabad, in the considered opinion of this 'Tribunal'.

5. Be that, as it may, notwithstanding the fact that the 'Adjudicating Authority'(National Company Law Tribunal, Hyderabad Bench, Court II, Hyderabad, in IA (IBC)/131&132/2021 in CP (IB) No.294/7/HDB /2017 had 'Simpliciter' adjourned the two 'Interlocutory Applications' to 16.4.2021 by means of an order dated 19.3.2021, this 'Tribunal' at this juncture without traversing upon the merits of the controversies in the subject matter in issue and also not delving deep, considering the grievances expressed on behalf of the 'Appellant', deems it fit quite in fitness of things, in directing the 'Adjudicating Authority' (National Company Law Tribunal, Hyderabad Bench, Court II, Hyderabad), to take up the matter in IA (IBC)/131&132/2021 in CP (IB) No.294/7/HDB /2017 on 6.4.2021 and to dispose of the same on merits, ofcourse after providing adequate opportunities to the respective sides to put forward their view points ofcourse, in the manner known to Law and in accordance with Law.

6. It is open to the respective sides to raise all factual and legal pleas before the 'Adjudicating Authority' who shall take into account of the same and pass a reasoned speaking order in a Fair, Just and dispassionate manner, uninfluenced with any of he observations made by this 'Tribunal' in this 'Appeal'.

7. With the aforesaid observations and directions, the instant 'Appeal' shall stand disposed of. No costs. IA No.61 of 2021 is closed with a direction to the 'Appellant' to file 'Certified Copy' of the 'Impugned Order' within two weeks from Today. IA No.62 (Stay Application) is closed.

[Justice Venugopal M]
Member (Judicial)

[V.P.Singh]
Member (Technical)

26.3.2021

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