

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

Company Appeal (AT) (CH) (INS.) No. 319 / 2022

(Under Section 61 of the Insolvency and Bankruptcy Code, 2016)

**(Arising out of the `Order' dated 08.07.2022 in IA No. 71 of 2022 in
CP(IB) No. 651 / 7 / HDB / 2018, passed by the `Adjudicating
Authority', (`National Company Law Tribunal',
Hyderabad Bench – I, Hyderabad))**

In the matter of:

Dr. K.V. Srinivas

Resolution Professional,
Sainath Estates Private Limited
402, 4th Floor, 6-3-249/6,
Alcazar Plaza & Towers,
Banjara Hills,
Hyderabad,
Telangana - 500034

..... Appellant

Present:

For Appellant : Mr. Y. Suryanarayana, Advocate

J U D G M E N T
(Virtual Mode)

Justice M. Venugopal, Member (Judicial):

Preface:

Company Appeal (AT) (CH) (INS.) No. 319 of 2022:

The `Appellant' / `Insolvency Resolution Professional', has preferred the instant Comp. App (AT) (CH) (INS.) No. 319 of 2022, before this `Tribunal', as an `Aggrieved Person', on being dissatisfied with the `impugned order' dated 08.07.2022 in IA (IBC) No. 71 of 2022

in CP(IB) No. 651 / 7 / HDB / 2018, (Filed under Section 33 (3) (b) of the Insolvency and Bankruptcy Code, 2016, passed by the 'Adjudicating Authority', ('National Company Law Tribunal', Hyderabad Bench – I, Hyderabad).

2. The 'Adjudicating Authority', ('National Company Law Tribunal', Hyderabad Bench – I, Hyderabad), while passing the 'impugned order' dated 08.07.2022 in IA (IBC) No. 71 of 2022 in CP(IB) No. 651 / 7 / HDB / 2018, at Paragraphs 26 to 31, had observed the following:

26. *'In so far as the case on hand is concerned, since the present RP had filed his written consent to act as liquidator the requirement under subsection 1 of section 34 IBC stands satisfied. None of the requirements mandated under sub section 4 of section 33 IB Code, either exist or even pleaded by the Lenders. As regards the allegation that lenders are dissatisfied with the functioning of RP as such another person be appointed to act as liquidator, firstly, the same does not fit in the scope of sub section 4 of IB Code, supra. Nextly, the minutes of the joint lenders meeting held on 26.04.2022 is totally silent with regard to expression of dissatisfaction on the performance of the Resolution Professional.*

27. *Now coming to the ruling in re, Sandeep Kumar Gupta, relied on by the Learned Counsel Shri. V VSN Raju for the lenders, we state that the facts in the present case do not match to the facts in the case of Sandeep Kumar Gupta. In Sandeep Kumar Gupta's, case NCLT, finding as to non-submission of the resolution plan by the RP was found to be incorrect by Hon'ble NCLAT. Nextly, Hon'ble NCLAT, having found that the Adjudicating Authority has recorded that it was not satisfied with the performance of the RP, upheld the replacement on the said ground alone, thereby added a*

new dimension to Sec 34 (1) for replacement of the RP as liquidator.

28. As far as the case on hand is concerned the Financial Creditors have not whispered replacement of the RP to act as liquidator in the present Application nor this Adjudicating Authority had not ever made any finding of the mis-conduct of the RP, therefore in our view the ruling in NCLAT is not acceptable to the case on hand.

29. Therefore, having regard to Section 34(1) of IBC, supra, more particularly, sub-clause (4), we find that the situation as contemplated under Section 34(1) (4) of IBC for replacement of the present RP to act as liquidator, since neither pleaded nor exists, We find merit in the submission of the Learned Counsel for the Applicant Shri. Y. Suryanarayana, that replacement of the present RP to act as liquidator by another RP is unsustainable under law.

30. It is pertinent to note that minutes of joint lenders meeting discloses that newly proposed liquidator had accepted to act as liquidator by agreeing for 50% of cost under Regulation towards his fee. Therefore, the only 'reason' for replacement of the RP as liquidator appears to be the willingness of the newly proposed liquidator to accept 50% of the cost.

31. Be that as it may, the fact remains that the lenders in their wisdom wanted replacement of the existing resolution professional as Liquidator by another resolution professional. Therefore, graceful exit of the present resolution professional perhaps will pave way for smooth liquidation process. Hence, without accepting the plea put forth by the lenders that the performance of the present resolution professional is unsatisfactory, and only to facilitate smooth liquidation process of the corporate debtor, we allow the plea of the lenders for replacement of the present by another resolution professional as liquidator named in the minutes of the joint lenders meeting dated 26.04.2022. The fee and expenses of the present RP if not paid shall forthwith be paid and only upon

complete payment, the newly appointed resolution shall assume charge.’’

and passed the ‘Order of Liquidation’, against the ‘Corporate Debtor’, and ‘Disposed of’ the ‘Interlocutory Application’.

Appellant’s Contentions:

3. Questioning the ‘Propriety’, ‘Validity’ and ‘Legality’ of the ‘impugned order’ dated 08.07.2022 in IA No. 71 of 2022 in CP(IB) No. 651 / 7 / HDB / 2018, passed by the ‘Adjudicating Authority’, (‘National Company Law Tribunal’, Hyderabad Bench – I, Hyderabad), the Learned Counsel for the ‘Appellant’, submit that the ‘Appellant’, was ‘appointed’, as an ‘Interim Resolution Professional’, of M/s. Sainath Estates Pvt. Ltd.’ (‘Corporate Debtor’) in CP(IB) No. 651 / 7 / HDB / 2018, passed by the ‘Adjudicating Authority’, (‘National Company Law Tribunal’, Hyderabad Bench – I, Hyderabad). Further, the ‘Corporate Insolvency Resolution Process’ of the ‘Corporate Debtor’, was set into motion, in accordance with the provisions of I & B Code, 2016 and the ‘Rules’ and ‘Regulations’, applicable thereto.

4. According to the Appellant, in compliance with the ingredients of Regulation 17 (1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016

(`CIRP Regulations'), constituted the `Committee of Creditors', and filed a `Report', before the `Adjudicating Authority', (`Tribunal').

5. It is represented on behalf of the `Appellant', the first meeting of the Committee of Creditors', was held on 26.09.2019, wherein, the `Appellant', was confirmed, as the `Resolution Professional' (`RP'), as per Section 22 (2) of the I & B Code, 2016. As per `Order' dated 23.10.2019, IA No. 865 of 2020, was filed by the `Appellant', in which, the `Adjudicating Authority' (`Tribunal'), was pleased to affirm the `Appointment' of the `Appellant', as a `Resolution Professional'.

6. It is the version of the `Appellant' that he had discharged his `Role' and `Responsibilities', as per the I & B Code, 2016, applicable Rules and Regulations. Ultimately, a `Resolution Plan', came to be presented, before the `Committee of Creditors', wherein, the `Promoter' of the `Corporate Debtor', was the `Resolution Applicant'.

7. That apart, on 19.09.2020, the `Committee of Creditors', in their 16<sup>th</sup> Meeting, had approved the `Resolution', seeking `Appointment' of the `Appellant', as the `Liquidator', by a majority `Vote'.

8. Later, the `Adjudicating Authority', through its `Order' dated 04.01.2021, had directed the `Resolution Professional, to convene a fresh `Committee of Creditors' Meeting and obtain `Voting', on the

`Resolution Plan`, by the `Committee of Creditors Members`, and submit the `Recommendations`, of the `Committee of Creditors`, to the `Tribunal`, within two weeks.

9. It comes to be known that, in the `17<sup>th</sup> Committee of Creditors Meeting` that took place, on 07.01.2021, the `Committee of Creditors`, had `approved` the `Resolution Plan`, given by the `Resolution Applicant`, with a `Vote` of 100%. Later, an `Interlocutory Application`, was projected by the `Appellant`, before the `Adjudicating Authority`, seeking an `Approval` of the `Resolution Plan`, which was approved, through an `Order` dated 09.11.2021.

10. The Learned Counsel for the Appellant brings it to the notice of this `Tribunal` that a `Monitoring Committee`, was formed in accordance with the terms and conditions of the `Approved Resolution Plan`, consisting of the `Appellant`, `Canara Bank` and the `Representative of the Resolution Applicant`. However, there was a `Violation` of the `Terms` of the `Plan`, by the `Resolution Applicant`, wherein, `no payments`, were effected towards the `3<sup>rd</sup> Tranche`.

11. It is the clear cut stand of the `Appellant` that inspite of the repeated opportunities availed by the `Resolution Applicant`, on account of non-adherence with the `Terms` of the `Resolution Plan`, and the

`Orders' of the `Adjudicating Authority' (`Tribunal'), the `Corporate Debtor', was placed under `Liquidation', as per `Order' dated 08.07.2022, wherein, the `Appellant', was replaced as the `Liquidator', and one Mr. Gollamudi Krishna Mohan was `appointed', as the `Liquidator' of the `Corporate Debtor', in contravention to the provisions of Section 34 (1) and Section 27 (2) of IBC, 2016.

12. The Learned Counsel for the Appellant, contends that the `Appellant', before the `Adjudicating Authority', had pleaded that except, for the `grounds', specified in Section 34 (4) of the I & B Code, 2016, no change of `Liquidator', may be permissible, on any other `grounds', having satisfied the requirements of the ingredients of Section 34 (1) of the Code.

13. The Learned Counsel for the Appellant, points out that a `Memo', was filed on behalf of the `Financial Creditor', mentioning that the `Joint Lenders Meeting', was held on 22.04.2022, wherein, the `Lenders', had expressed their `Opposition', regarding the continuation of Mr. K.V. Srinivasa, i.e., the `Resolution Professional', as the `Liquidator' in the matter. In this connection, the Learned Counsel for the `Appellant', takes a stand that an `Objection', was raised by the Learned Counsel for the

Appellant, over the 'Memo', filed by the 'Financial Creditor', on the basis, that a 'Memo', is 'not maintainable'.

14. Furthermore, according to the Appellant, the I & B Code, 2016, does not contain any provision for an 'Appointment' of 'any other person', as 'Liquidator', except the incumbent 'Resolution Professional'.

15. It is projected on the side of the 'Appellant', that there is no circumstance whatsoever, that exists, under which, an existing 'Resolution Professional', can be replaced with a new 'Resolution Professional', as 'Liquidator'. Besides this, the Learned Counsel for the Appellant, advances an argument that the 'Statute' has not conferred any 'Authority' or 'Power', either to an 'Adjudicating Authority' or to the 'Committee of Creditors', in regard to an 'Appointment' of 'Liquidator', as well as the 'Replacement' of 'Resolution Professional', as 'Liquidator'.

16. The emphatic plea of the Learned Counsel for the 'Appellant' is that, when the language of the 'Statute', is plain, simple, clear and an unambiguous one, the same cannot be 'supplemented', by any other reason or wisdom of the Court.

17. The other contention raised on behalf of the Appellant is that the 'Adjudicating Authority' ('Tribunal'), cannot rewrite the 'Law', by substituting its 'Reasoning' or 'Wisdom' with the plain, clear,

unambiguous and simple provisions of the 'Statute', passed by the 'Legislature'. The Learned Counsel for the Appellant strenuously advances an argument that, 'No Judicial Order', be passed, resting upon a 'Memo', and that 'Filing' of 'Memo', is not visualised, either under the Civil Procedure Code or under the Civil Rules of Practice. In short, the contention of the 'Appellant', is that, 'No Judicial Order', can be passed on a 'Memo', and in this connection, refers to the 'Order' dated 05.02.2016, passed by the Hon'ble High Court of Andhra Pradesh in Syed Yousuf Ali v. (i) Mohd. Yousuf and three Ors. (vide C.R.P. No. 4794 of 2015, wherein, at Paragraphs 30 & 31, it is observed as under:

30. "The objection as to admissibility may be raised by filing a petition to reject the document on the ground that it is inadmissible or by oral objection during pendency of the suit. Here, though no judicial order can be passed on the memo still the oral objection raised by the learned counsel as to the admissibility of the document is required to be considered and if the Court finds that the objection raised by the learned counsel as to the admissibility is sustainable, the course open to the Court is to reject the document exercising power under Order 13 Rule 3 CPC, the Court is not preclude from passing such order.

31. In any view of the matter, the petitioner herein raised an objection orally or bringing the same to the notice of the Court by filing a memo as to his objection, the Court has to pass appropriate orders, but passed an order which is contrary to law without distinguishing marking and admitting the document in evidence. Therefore, the docket order of the trial Court dated 11.09.2015 is erroneous, since, the trial Court did not exercise jurisdiction that conferred on it."

18. The Learned Counsel for the Appellant, refers to the Judgment of the Hon'ble Supreme Court of India in the matter of B. Srinivasa Reddy v. Karnataka Urban Water Supply & Drainage Board Employees' Association (vide Civil Appeal No. 3719 of 2006 dated 28.08.2006, wherein, it is observed as under:

“..... when the Act and the statutory Rules have not prescribed any definite term and any particular mode, the High Court could not have read into the statute a restriction or prohibition that is not expressly prohibited by the Act and the Rules.”

19. Further, the Learned Counsel for the Appellant, advances a plea that Section 238 of the I & B Code, 2016, ‘overrides’, other ‘Laws’, and points out that by the very ‘Operation of Law’, the ‘Resolution Professional’, shall continue to ‘act’, as a ‘Liquidator’, for the purpose of ‘Liquidation’, unless ‘Replaced’, by an ‘Adjudicating Authority’, under sub-section 4 of Section 34 of the Code. Also that, unlike the enabling power under Section 27 of the I & B Code, 2016, wherein the ‘Committee of Creditors’, can recommend the ‘Removal’ or ‘Replacement’ of a ‘Resolution Professional’, there exists no such provision on the ‘Appointment’ of a ‘Liquidator’, under Section 34 of the Code.

20. The Learned Counsel for the Appellant contends that there is not even an ‘Iota of Element of Exercise of Commercial Wisdom’, with

respect to the 'Appointment' of a 'Liquidator'. In fact, the 'Adjudicating Authority', had done something indirectly, when the same could not be done, in a direct manner.

21. The Learned Counsel for the Appellant points out that when the 'Committee of Creditors', is not clothed with the power of 'Appointment' of 'Liquidator', it could not have recommended the 'Replacement', thereof and further, when the 'Committee of Creditors', does not have the power to 'Appoint', a 'Liquidator' itself, it cannot and could not recommend the name of any other 'Resolution Professional', as 'Liquidator'.

Evaluation:

22. Before the 'Adjudicating Authority', the 'Appellant' / 'Chairman' of the 'Monitoring Committee' of 'Sainath Estates Private Limited', Hyderabad, had filed an IA No. 71 of 2022 in CP (IB) No. 651 / 7 / HDB / 2018 (Filed under Section 33 (3) (b) of the Insolvency and Bankruptcy Code, 2016, praying for (a) passing of an 'Order', in accordance with Section 33 of the Code, (b) in permitting the 'Applicant' (Appellant) to forfeit, the 'Performance Bank Guarantee Amount'.

23. In IA No. 71 of 2022 in CP (IB) No.651 / 7 / HDB / 2018, the 'Applicant' ('Appellant'), before the 'Adjudicating Authority', had

averred that the 'Respondent' / 'Successful Resolution Applicant's Resolution Plan', was approved by 100% majority by the 'Committee of Creditors', and by the 'Order' of the 'Adjudicating Authority', dated 09.11.2021, and because of the 'Violations' of the 'Terms' of the 'approved Resolution Plan', the 'Respondent' / 'Successful Resolution Applicant', was arrayed as a 'party', seeking relief against him.

24. According to the 'Appellant' / 'Applicant', he had received an e-mail from the Member of the 'Monitoring Committee', Viz. 'Canara Bank', requesting the 'Appellant' / 'Applicant', to move an 'Application', before the 'Adjudicating Authority', and to take further steps, as per 'Law'.

25. It is the stand of the 'Appellant' / 'Applicant', as per Section 33 (3) of the I & Code, 2016, wherein the 'Resolution Plan', 'approved', by the 'Adjudicating Authority', is violated by the 'Corporate Debtor' concern, any 'Person' other than the 'Corporate Debtor', whose interests are prejudicially affected by such contravention, may make an application to the 'Adjudicating Authority' for a 'Liquidation Order', as referred to in sub-clauses (i), (ii), (iii) of clause (b) sub-section (1).

26. It is brought to the fore that the Appellant / Applicant, before the 'Adjudicating Authority', that the 'Resolution Applicant', had deposited a

Sum of Rs.10 Crores as 'Performance Guarantee', and the same was to be 'Forfeited', because of the failure to implement the 'Resolution Plan', as 'Terms' of the 'approved Resolution Plan', and its implementation schedule. Hence, the 'Appellant'/'Applicant', had sought a 'Relief', in IA No. 71 of 2022 in CP (IB) No. 651 / 7 / HDB / 2018, praying for 'issuance of an appropriate direction', to be given to the 'Appellant' / 'Applicant', in terms of the 'Code', and permit him to 'Forfeit' the 'Performance Bank Guarantee' for a sum of Rs.10 Crores, as per Regulation 36B (4A) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

27. As seen from the 'impugned order' dated 08.07.2022 in IA (IBC) / 71 of 2022 in CP IB No. 651 of 2018, it is evident that on behalf of the Lenders, a plea was advanced that the 'existing Resolution Professional', be replaced with a 'Person's name', being proposed by the 'Lenders', as the 'Joint Lenders', since, they are dissatisfied with the 'Performance', of the present 'Resolution Professional'.

28. On behalf of the 'Appellant' / 'Resolution Professional', before the 'Adjudicating Authority', an emphatic plea was raised to effect that as per Section 34 (4) of the I & B Code, 2016, only when the 'Specifications' adumbrated were pleaded and exists, then only an 'Adjudicating

Authority', is empowered, to 'replace' the 'Resolution Professional', as 'Liquidator', by virtue of the ingredients of Section 34 (1) (4) of the 'Code'.

Replacement of RP by CoC:

29. At this juncture, this 'Tribunal', pertinently points out that under Section 27 of the I & B Code, 2016, the 'Committee of Creditors', can 'Vote', to 'displace' / 'replace' a 'Resolution Professional', at any time, during the 'Corporate Insolvency Resolution Process'. However, a likewise provision, in regard to the 'Liquidation', of an 'Insolvent Company', does not subsist.

Exercise of Discretion:

30. Undoubtedly, an 'Adjudicating Authority' ('Tribunal'), while exercising its 'sound Judicial Discretion', is to be 'subjectively' satisfied that, such a 'displacement' of an 'Insolvency Professional', is in the general benefit and advantage of the concerned, interested in the 'Assets' of the 'Company'. While taking such a 'move' / 'decision', an 'Adjudicating Authority' ('Tribunal'), is to take into consideration, the 'special circumstances', that may exist, ofcourse depending on the facts and circumstances of the case, before it.

Filing of Application:

31. In English 'Law', the Court will allow an 'Application', to be filed by any 'Person', in removing a 'Liquidator', under Section 108 of the UK Insolvency Act, 1986, if it considers proper.

32. The jurisdiction showered on the Court to 'remove' a 'Liquidator', under Section 108 (2) of the UK Insolvency Act, 1986, on cause being exhibited, places a 'Burden', on the 'Petitioner', to 'Show Cause', why a 'Liquidator', ought not to be removed, but, it was not an essential condition for removal of a 'Liquidator', to show a 'personal misconduct' or 'unfitness'.

33. It is to be remembered that a 'Liquidator', may be removed, where he has shown, insufficient 'Vigour', in carrying out his 'duties', as per decision in 'Re Keypak Homecare Ltd.' (1987) BCLC 409 (Ch D.).

Removal of Liquidator:

34. A 'Liquidator', is to act in the interests of 'General Body' of 'Creditors', and ought not to continue in Office, if the 'Creditors', no longer have confidence in its ability, to realise 'Company's Assets' to the 'Creditors' best advantage, and to 'prosecute' / 'pursue' the 'Claims', with due diligence.

35. There is no two opinion of an important fact that a 'removal' of an 'Insolvency Professional' / 'Liquidator' from 'Office', may have a 'deleterious effect', on a 'Liquidator's Professional standing' and 'reputation'. However, there must be strong grounds, before the Court, to remove a 'Liquidator' (vide Edennote Ltd. Re [1996] EWCA 1359).

Rejection:

36. By and large, in the absence of circumstances, provided under Sub Section (4) of Section 34 of the I & B Code 2016, an 'Adjudicating Authority', is not enjoined to replace a 'Resolution Professional'. In fact, an 'Appointment', of a 'Resolution Professional', as a 'Liquidator', can be 'Rejected' / 'Negatived' by an 'Adjudicating Authority', on grounds, other than those mentioned under Section 34 (4) of the I & B Code, 2016, and there is no 'Legal Impediment', in this regard. If an 'Adjudicating Authority', is dissatisfied with the 'Performance of Resolution Professional', as 'Liquidator, it may 'appoint' another 'Insolvency Professional', as 'Liquidator', in the considered opinion of this 'Tribunal'.

No Vested / Fundamental Right:

37. A 'Resolution Professional', appointed under Section 22 of the I & B Code 2016, acts as a 'Liquidator', if he gives consent in writing.

There is no 'Vested / Fundamental Right', on the part of any 'Resolution Professional' or a 'Liquidator', to stake a 'Claim' that, he will function till the completion of 'Corporate Insolvency Resolution Process' / 'Liquidation Process', is over, and in fact, he is to 'Discharge' his 'functions' / 'duties', keeping in tune with the tenor and spirit of the I & B Code, 2016 and Regulations, made thereunder, dehors the fact that the 'Insolvency and Bankruptcy Board of India', may recommend the 'Replacement' of the 'Resolution Professional', as per Section 34 (4) (b) of the 'Code'.

NCLAT Decision:

38. This 'Tribunal', aptly points out, the 'Judgment' of this 'Tribunal' dated 31.01.2018 in Devendra Padamchand Jain v. State Bank of India (vide Comp. App (AT) (INS.) No. 177 of 2017), where the 'Adjudicating Authority', was of the opinion that the 'Resolution Professional', had failed to adequately assist them, in the conduct of 'Insolvency Proceedings', and failed to state that the 'Resolution Plan', submitted by him met all the requirements under Section 30 (2) of the I & B Code, 2016, and that the 'Committee of Creditors' and the 'Financial Creditor', were not satisfied with the 'Resolution Professional', the 'Application' for 'Replacement' of 'Resolution Professional' was allowed.

Complaints:

39. To be noted, that a 'Stakeholder', affected by the 'conduct of the Resolution Professional', may file a 'complaint', under 'IBBI' ('Grievance and Complaint Handling Procedure') Regulations 2017. Therefore, the 'Creditors' are 'Stakeholders' affected by the actions of 'Resolution Professional', may initiate 'Proceedings', under the aforesaid Regulations and in the event of 'allegations' are sustained, the 'IBBI', may recommend for 'Replacement' of a 'Resolution Professional', under Section 34 (4) (b) of the 'Code'.

40. As far as the present case is concerned, this 'Tribunal', points out that before the 'Adjudicating Authority', on behalf of 'Lenders', even though, a reliance was placed on the 'Minutes' of 'Joint Lenders Meeting', that took place on 26.04.2022, the said 'Minutes', was conspicuously silent, about the aspect of 'any dissatisfaction being expressed', pertaining to the 'performance' of the 'Resolution Professional', in the earnest opinion of this 'Tribunal'.

41. However, the 'Adjudicating Authority', in the 'impugned order', had noted that in the 'Minutes' of 'Joint Lenders Meeting', dated 26.04.2022, that the 'newly proposed Liquidator', had acknowledged to 'act as Liquidator', by consenting for 50% of costs under Regulation and

that was the reason for the 'displacement' of a 'Resolution Professional', as 'Liquidator'.

42. Dealing with the plea of the 'Appellant' that the 'Adjudicating Authority', was not 'right' in taking cognisance of a 'Memo', filed by the 'Financial Creditor', and that the 'impugned order' dated 08.07.2022 in IA (IBC) No. 71 of 2022 in CP(IB) No. 651 / 7 / HDB / 2018, cannot be passed on that count, there is no express 'Fetter', in 'Law' or 'NCLT Rules', 2016, on the part of the 'Adjudicating Authority', ('National Company Law Tribunal', Hyderabad Bench - I, Hyderabad), in this regard and no 'fault', can be found with the 'Adjudicating Authority', in passing the 'impugned order', considering the fact that an 'Adjudicating Authority' ('Tribunal') can determine its 'procedure' in a given case, as per Rule 34 of the NCLT Rules, 2016 (Afterall, the 'Rules' or 'Procedures', are the 'handmaid of Justice' and not the 'mistress of the Justice'), and the only rider being, to 'adhere to the Principles of Natural Justice'. Hence, the contra plea, taken on behalf of the 'Appellant', is not 'acceded to', by this 'Tribunal'.

43. Be that as it may, that in the present case, despite, the fact that the 'Minutes' of the 'Joint Lenders Meeting', that took place on 26.04.2022, were silent as regards the 'Lenders Expression of Dissatisfaction',

relating to the 'Discharge of Duties', by the 'Resolution Professional' and therefore, another 'Individual', be 'Replaced' and 'Appointed', to function as 'Liquidator', there is 'no embargo' in 'Law', for the 'Replacement' of present / current 'Resolution Professional' as 'Liquidator', by another 'Resolution Professional', on 'grounds' / 'reasons', other than those specified under Section 34 (4) of the I & B Code, 2016 (especially, when the 'Lenders' in their 'Commercial Decision and Wisdom', had opted for such a 'Replacement' of the 'existing Resolution Professional', as 'Liquidator', by another 'Resolution Professional', which carries due weightage and the same cannot be brushed aside so lightly.

44. As a matter of fact, the 'Adjudicating Authority', ('National Company Law Tribunal', Hyderabad Bench - I, Hyderabad), had applied its mind and exercised its 'Judicial Discretion', in the 'impugned order' dated 08.07.2022 in IA (IBC) No. 71 of 2022 in CP(IB) No. 651 / 7 / HDB / 2018, by making a pertinent 'Observation', that 'the graceful exit' of the 'present Resolution Professional', will pave way for the smooth 'Liquidation Process', of the 'Corporate Debtor' and permitted the 'plea' of the 'Lenders', in this regard, and passed an 'Order of Liquidation', against the 'Corporate Debtor' / 'M/s. Sainath Estates Pvt. Ltd.', by appointing 'Mr. Gollamudi Krishna Mohan' as 'Liquidator' and the

conclusion so arrived at, by the 'Adjudicating Authority', in the 'impugned order' dated 08.07.2022 in IA (IBC) No. 71 of 2022 in CP(IB) No. 651 / 7 / HDB / 2018, is free from 'any Legal Infirmities', as held by this 'Tribunal'. Accordingly, the 'Appeal' sans 'merits'.

Result:

In fine, Company Appeal (AT) (CH) (INS.) No.319 of 2022, is dismissed. No costs. IA No. 676 of 2022 ('For Stay') is closed.

**[Justice M. Venugopal]
Member (Judicial)**

**[Naresh Salecha]
Member (Technical)**

15/12/2022

SR / TM