NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 1040 of 2020

[Arising out of order dated 20.11.2020 in CA-766/2020 in IB-889(ND)/2019 passed by the Adjudicating Authority (National Company Law Tribunal, Court No. III), New Delhi]

IN THE MATTER OF:

Mohd. Nazim Khan
Erstwhile IRP
M/s. International Trenching Private Limited,
G-41, Ground Floor, West Patel Nagar,
New Delhi - 110008
Mobile: +91-9818156340
Email: nazim@mnkassociates.com

....Appellant.

Versus

1. Committee of Creditors of
M/s International Trenching Private Limited
301, Third Floor Vardhman Plaza - I,
J Block, Rajouri Garden,
New Delhi - 110027 **...Respondent No. 1**

2. HDFC Bank Limited
J-12/21, J Block Rajouri Garden,
New Delhi - 110027 **....Respondent No. 2**

3. M/s International Trenching Private Limited
Through Resolution Professional
301, Third Floor Vardhman Plaza - I,
J Block, Rajouri Garden
New Delhi - 110027 **....Respondent No. 3**

Present:

For Appellant: **Mr. Krishnendu Datta, Sr. Advocate with Mr. Nilotpal Shyam, Advocate.**
Mohd. Nazim Khan (In person)
Ms. Babita Jain (CS)

For Respondent: **Mr. Kunal Tandon and Ms. Richa Sandilya, Advocates for R-1 and 2.**

Ms. Deepika Bhugra Prasad, Mr. Dhananjaya Sud, Mr. Aditya Gauri, Mr. Gaurav Mitra and Ms. Shriya Raychaudhuri, Advocate for R-3.

J U D G M E N T
(6th August, 2021)

Justice Anant Bijay Singh;

This appeal has been preferred by Mohd. Nazim Khan who was the Interim Resolution Professional (**for short IRP**) of the Corporate Debtor (Respondent No. 3) – M/s International Trenching Private Limited being aggrieved and dissatisfied by the order dated 20.11.2020 passed by the Adjudicating Authority (National Company Law Tribunal, Court No. III), New Delhi in CA-766/2020 in IB-889(ND)/2019 whereby the Ld. Adjudicating Authority has passed the following order is as under:

> **"**Counsel for the CoC is present. It is submitted that the CoC on 26th October 2020 has resolve to replace the IRP Mr. Nazim Khan with Ms. Deepika Prasad. The resolution passed for replacing the IRP has been passed with 87% voting share. Therefore, Ms. Deepika Prasad is appointed as RP and Mr. Nazim Khan is hereby relief from the assignment with the direction to hand over the record and assets of CD within 10 working days to Ms. Deepika Prasad against proper receipts.
>
> The Proxy Counsel for Mr. Nazim Khan is present but has no information about the detail of remuneration and out of pocket expenses, which is to be paid to the IRP. Therefore, the CoC is directed to work out the remuneration and other expenses, if any, and pay the same to the IRP viz., Mr. Nazim Khan within 2 weeks.
>
> In terms of the above the IA is allowed.**"**

2. The facts giving rise to the instant Appeal is as under:

i) That one M/s International Trenching Pvt. Ltd.- Corporate Debtor was incorporated with authorized share capital of Rs. 1 Crore.

ii) That an Application under Section 9 of the Insolvency and Bankruptcy Code, 2016 (**for short IBC**) was filed against the Corporate Debtor by one Mr. Sonal Anand, which was allowed by the Ld. Adjudicating Authority being CP No. (IB)-889 (ND)/2019 against M/s International Trenching Pvt. Ltd.- Respondent No. 3 (herein)

iii) The aforesaid Application was allowed by the Ld. Adjudicating Authority under order dated 08.08.2019 whereby the Appellant (herein) was appointed as the Interim Resolution Professional of the Corporate Debtor.

iv) The Appellant after collation of the claims received, constituted the Committee of Creditors (**for short COC**) of the Corporate Debtor and accordingly convened the First Meeting of Committee of Creditors on 21.09.2019.

v) As no proposal with regard to appointment of Resolution Professional (**for short RP**) from any Financial Creditor including Respondent No. 2 - HDFC Bank Limited, J-12/21, J Block Rajouri Garden, New Delhi-110027 was put forth as per the Code, accordingly the Appellant put forward his name for appointment as the Resolution Professional of the Corporate Debtor.

vi) However, the said resolution was rejected by the Respondent No. 2 being sole member of the Committee of Creditors having 100% voting shares. By Item No. 13 of the 1st meeting of Committee of Creditors held on

21st September, 2019, Minutes of the 1st meeting as Annexure-3 at page 60 to 79 of the Appeal Paper Book.

vii) At page 66 of the Appeal Paper Book whereby confirmation of the Appointment of Interim Resolution Professional as Resolution Professional or to replace Interim Resolution Professional by another Resolution Professional as per Section 22(2) of the IBC. The Respondent No. 2 - HDFC Bank Limited being the sole member of Committee of Creditors proposed to replace Mohd. Nazim Khan, IRP (herein the Appellant) by Ashok Kumar Juneja as a Resolution Professional as per Section 22(2) of the IBC, 2016, without assigning any reason thereof.

viii) Further it was resolved that pursuant to Section 22(2) of the IBC appointment of Mohd. Nazim Khan (the Appellant herein) having IBBI Registration No. IBBI/IPA-002/IP-N00076/2017-18/10207, Interim Resolution Professional as Resolution Professional was approved by members of Committee of Creditors of M/s International Trenching Private Limited.

ix) Further C.A. 50/C-V/ND/2019, C.A. 80/C-V/ND/2019 in (IB) 889 (ND)/2019 was filed under Section 22(2) of the IBC, 2016 on behalf of HDFC Bank - Respondent No. 2 who is the sole member of the Committee of Creditors with 100% voting share made following prayers which read hereunder:

> **“**a) Allow the present application and appoint Mr. Ashok Kumar Juneja as the Resolution Professional. Further in the

interest of justice and fair investigation to not to replace the present IRP.

b) Pass further orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present case.**”**

x) The Ld. Adjudicating Authority under order dated 27.11.2019 passed the following order **“**Accordingly, it is, therefore, ordered that the prayer to confirm the appointment of Mr. Ashok Kumar Juneja as RP is concerned, is rejected. Further, with liberty to the HDFC Bank to make a similar prayer, if the appointment of Mr. Ashok Kumar Juneja as RP is confirmed by the COC in accordance with the provisions contained under Section 22(2) of the IBC**”** at page 79 of the Appeal Paper Book.

xi) That pursuant to order dated 27.11.2019 passed by Ld. Adjudicating Authority, the Appellant conducted the 4th Committee of Creditors Meeting on 17.12.2019 which was presided by Mohd. Nazim Khan, (IRP) as Chairman (the Appellant herein) and in Item No. 14 the matter to discuss and approve the replacement of IRP to Resolution Professional and it was resolved that Ashok Kumar Juneja be substituted with Ms. Deepika Bhugra Prasad having IBBI Registration No. IBBI/IPA- 003/IP-N000110/2017-2018/11186 because Mr. Ashok Kumar Juneja has withdrawn his consent. The copy of the Minutes of the 4th Meeting as Annexure-5 at page 108 to 121 of the Appeal Paper Book.

xii) That pursuant to the aforesaid directions of the Ld. Adjudicating Authority, the Appellant conducted the 5th Committee of Creditors Meeting on 29.01.2020 which was again presided by Mohd. Nazim Khan, (IRP) as Chairman (the Appellant herein). By Item No. 8 it was resolved that pursuant to the provisions of Section 12 (2) of the IBC, 2016 read with Regulation 40 of the Insolvency and Bankruptcy Board of India (for short IBBI) Regulation 2016 and all other applicable provisions of the IBC, 2016 the Interim Resolution Professional be and is hereby authorised to file an application to the Hon'ble NCLT, New Delhi to extend the period of Corporate Insolvency Resolution Process beyond period of 180 days for further 90 days. The copy of the Minutes of the 5th Meeting as Annexure-7 at page 264 to 275 of the Appeal Paper Book. From the perusal of the Minutes also indicate that HDFC Bank Limited by voting share of 80.64% in Agenda Item No. 8 was declared as disapproved by 80.64% voting in terms of Section 21(8) of the IBC, 2016.

xiii) Further case is that one C.A. No. 1381 of 2020 in (IB)-889 (ND)/2019 was filed by HDFC Bank under Section 60(5) & Section 12 of the IBC, 2016 read with Regulation 40 of the IBBI for exclusion of period or in the alternative extension of CIRP (at page 281 to 287 of the Appeal Paper Book Vol.-II) with prayer read as under:

> **“** a) Allow the present application and exclude the total period of 114 days from the CIRP of the Corporate Debtor;
>
> b) In the alternative extend the CIRP by a period of 90 days in terms of Section 12(3) of IBC;
>
> c) Pass directions to the Resolution Professional of the Corporate Debtor to file the appropriate application in the above regard; and / or

d) Pass such other or further orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present case.**"**

xiv) The Ld. Adjudicating Authority under order dated 28.09.2020 which is at page 291 (Vol.- II) of the Appeal Paper Book passed the following orders as under:

" I.A. No. 1381/2020 filed in IB-889/ND/2019:

The Counsel for HDFC Bank is present. The Bank is one of the constituents of the COC and prayed for extension of the CIR Process. At this stage, the IRP along with the Counsel caused appearance and submitted that on an earlier point of time, the HDFC Bank had declined to seek the extension of the CIR Process.

In the circumstances, it is deemed appropriate to direct the IRP to send short notice to all the members of the COC for convening the meeting for deliberating on the issue with regard to extension of the CIR Process. The meeting shall be convened on 13th October, 2020 through visual hearing and the report shall be filed on 16th October, 2020.

List on 16.10.2020.**"**

3. Based on these facts, the Appellant has challenged the impugned order dated 20.11.2020 passed by the Adjudicating Authority (National Company Law Tribunal, Court No. III), New Delhi in CA-766/2020 in IB-889(ND)/2019 at page 44 of the Appeal Paper Book.

Submissions on behalf of the Appellant

4. The Learned Sr. Counsel for the Appellant during the course of argument and his Written Submissions have submitted that the impugned order dated 20.11.2020 is bad in law for following reasons:

a) That the Application for the replacement of IRP was time barred on the date of passing of the impugned order as more than 270 days (herein more than 470 days) has already elapsed from the start of Corporate Insolvency Resolution Process of Corporate Debtor and this Appellate Tribunal has also held on 03.01.2019 in ***Company Appeal (AT) (Insolvency) No. 560 of 2018 (Sanjay Kumar Ruia Vs. Catholic Syrian Bank Ltd. and Ors.) Reported in MANU/NL/0012/2019*** paragraph No. 11 which reads as under:

> **"11.** We, therefore, hold that the Adjudicating Authority has no jurisdiction to proceed with the 'Corporate Insolvency Resolution Process' can be made against (i) the 'Corporate Debtor' whose assets and income is below a level, as may be notified by the Central Government or (ii) the 'Corporate Debtor' with such class of creditors or (iii) such other category of corporate persons as may be notified by the Central Government.**"**

b) It was further submitted that the extension of the CIRP was approved by Ld. Adjudicating Authority under order dated 11.12.2020 (brought on Record by the Reply Affidavit filed by Respondent No.3 at page 235 to 236) cannot remedy the wrong committed by the Adjudicating Authority, therefore, the impugned order is fit to be set aside and appeal be allowed.

<u>Submissions on behalf of the Respondent No. 2.</u>

5. The Learned Counsel for the Respondent No. 2 during the course of argument and his Reply Affidavit as well as Written Submissions have submitted that Appellant has no vested legal interest and he has no right to continue once the decision is taken by the Committee of Creditors to replace him. He has no *locus standi* to maintain this appeal.

6. It was further submitted that the reliance is place upon the Judgment passed by the Hon'ble Supreme Court in ***K. Shashidhar Vs. Indian Overseas bank & Ors. reported in 2019 (12) SCC 150*** paragraph no. 52 wherein held that **"***<u>The commercial wisdom of CoC has been given paramount status without any judicial intervention, for ensuring completion of the stated processes within the timelines prescribed by IBC</u>***."** Further, on the aspect of legislative intent the Hon'ble Supreme Court reiterated that **"***<u>the legislature, consciously, has not provided any ground to challenge the "Commercial wisdom" of the individual financial creditors or their collective decision before the Adjudicating Authority</u>***"** as such decision taken by the Committee of Creditors is not open for any judicial intervention or adjudication by the Adjudicating Authority.

7. It is further submitted that this Appellate Tribunal has also held in ***Company Appeal (AT) (Insolvency) No. 882 of 2020 (Naveen Kumar Jain Vs. Committee of Creditors of K.D.K. Enterprises Pvt. Ltd. & Ors)*** wherein this Appellate Tribunal has held as follows:

> **"** After hearing learned counsel for the Appellant, we find that the Appellant who had been appointed as Interim Resolution Professional, had approached the Adjudicating Authority

(National Company Law Tribunal), Court-V, New Delhi, under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 ("I&B Code" for short) for seeking payment of fee and staying of his replacement. The prayer was declined on the ground that the wisdom of Committee of Creditors is beyond the pale of challenge. In the instant case, the sole Financial Creditor (Indian Bank) has voted to replace the Resolution Professional under Section 22 of the 'I&B Code' which means the replacement is sought with 100% voting shares while the requisite vote is 66%. It is well settled that the commercial wisdom of the Committee of Creditors which covers matters including the replacement of the Resolution Professional does not fall within the limited scope of judicial review and is not justiciable.

In so far as the issue regarding fee is concerned, the Adjudicating Authority has rightly observed that under Regulation 33(3) of the IBBI, fee has been fixed by the Committee of Creditors at Rs. 50,000/- which does not brook interference. In view of the same, we are not inclined to interfere with the impugned order which does not suffer from any legal infirmity.

The appeal is dismissed. No costs.**"**

8. It is further submitted that in the back drop of these facts of the instant case, it is covered by Judgments of Hon'ble Supreme Court and also this Appellate Tribunal (supra), there is no merit in the Appeal and it is fit to be dismissed.

Submissions on behalf of the Respondent No. 3

9. The Learned Counsel for the Respondent No. 3 during the course of argument and his Reply Affidavit as well as Written Submissions have

submitted that the Interim Resolution Professional duly convened the 4th Meeting of the Committee of Creditors dated 17.12.2019 whereby the CoC resolved by to appoint the Respondent No. 3 as the Resolution Professional of the Corporate Debtor which is annexed as Annexure-R/3-2 of the Reply Affidavit (at page no. 56). Wherein, Agenda Item No. 14 deals with captioned as **"**To discuss and approve the Replacement of IRP to Resolution Professional**"**. It was resolved that the present Interim Resolution Professional - Mr. Mohd. Nizam having IBBI Registration No. IBBI/IPA-002/IP-N00076/2017-18/10207 be and is hereby replaced with Ms. Deepika Bhugra Prasad having IBBI Registration No. IBBI/IPA-003/IP-N000110/2017-2018/11186 appointed as the Resolution Professional in terms of Section 22(2) of the IB Code, 2016.

10. It was further resolved that the HDFC Bank Limited - Respondent No. 2 be and is hereby authorized to file the above mentioned consent before the Hon'ble NCLT on behalf of the Committee of Creditors. However, due to the limited functioning of the Hon'ble NCLT and due to the lockdown in the country, the said application could not be adjudicated and the matter remained sub-judice before the Hon'ble NCLT.

11. It is further submitted that the 180 days of the CIRP period expired on 04.02.2020 and the HDFC Bank (herein Respondent No. 2) had filed an Application (I.A. No. 1381/2020) on 17.02.2020 for extension of the CIRP period before the Hon'ble NCLT. However, due to the lockdown in the country, the same was listed for the very first time on 28.09.2020 (at page 124 of the Reply Affidavit) whereby the Hon'ble NCLT directed the Appellant to conduct a CoC Meeting on 13.10.2020 to deliberate on the issue of

extension of the CIRP period and replacement of the IRP of the Corporate Debtor.

12. It is further submitted that the Appellant illegally wrote to the Respondent No. 2 on 13.10.2020 (the day of the meeting) to obtain a fresh/revised written consent from the Respondent No. 3 citing vague reasons. However, the same was submitted to the Appellant at 2PM on 13.10.2020.

13. It is further submitted that subsequently, the Appellant convened a Committee of Creditors Meeting on 13.10.2020 whereby a Resolution was passed by the members of the CoC with respect to the extension in the CIRP period. However, discussion on the agenda for the appointment of the Respondent No. 3 as the Resolution Professional was adjourned by the Appellant to the next meeting of the CoC which is evident at page 136 to 146 of the Reply Affidavit filed by the Respondent No. 3.

14. It is further submitted that the Appellant convened another CoC Meeting on 26.10.2020 whereby a Resolution was passed by the members of the CoC with respect to the appointment of the Respondent No. 3 as the Resolution Professional of the Corporate Debtor which is evident from Annexure- R/3-10 at page 147 to 153 of the Reply Affidavit filed by the Respondent No. 3.

15. It is further submitted that the Appellant filed a fresh Application bearing I.A. No. 4959/2020 on 04.11.2020 before the Hon'ble NCLT seeking extension in the CIRP period as resolved in the 6th Meeting of the CoC which is Annexure -R/3-12 at page 160 to 185 of the Reply Affidavit.

16. It is further submitted that on 20.11.2020, I.A. No. 766/2020 was heard by the Hon'ble NCLT and thereby the Respondent No. 3 was appointed as the Resolution Professional of the Corporate Debtor which is at Annexure -R/3-13 (page 231 to 232 of the Reply Affidavit).

17. It is further submitted that the Hon'ble NCLT under order dated 11.12.2020 (at page 235 of the Reply Affidavit) excluded a period of 252 days i.e. from 04.02.2020 to 13.10.2020 and allowed the extension of 90 days with the direction to the Resolution professional to expedite the process for seeking Resolution Plan from the prospective Resolution Applicants for placing before the CoC for consideration and file a status report prior to the expiry of the extended period of time before this Authority.

18. It is further submitted that the Central Government, in the event of the outbreak of the Novel Coronavirus in the country, had imposed a nationwide lockdown from 25.03.2020. Therefore, the 90 days' exclusion period in the said 252 days' period provided by the Hon'ble NCLT was rendered inoperable.

19. It is further submitted that the Respondent No. 3 published From-G on 15.12.2020 inviting Expression of Interest (**for short EOI**) and further submission of Resolution Plans from the Prospective Resolution Applicants which is evident as Annexure-R/3-15 (at page 237 to 241 of the Reply Affidavit).

20. It is further submitted that in view of the order dated 11.12.2020 passed by the Hon'ble NCLT, the CIRP period was due to expire on 12.01.2021. Pursuant to the same, the Respondent No. 3 filed an Application

bearing I.A. No. 465/2021 seeking extension by a further period of 60 days in the CIRP period.

21. It is further submitted that the aforesaid Application was allowed by the Hon'ble NCLT under order dated 12.02.2021 thereby extending the CIRP period by a further period of 60 days w.e.f. 12.01.2021. In lieu of the same, the CIRP period expired on 12.03.2021.

22. It is further submitted that the Respondent No. 3 had received EOIs from 2 Prospective Resolution Applicants who further submitted their respective Resolution Plans on or before the last date of submission of EOI i.e. 26.02.2021 to the Respondent No. 3.

23. It is further submitted that the aforesaid Prospective Resolution Applicants submitted their Revised Resolution Plans on 11.03.2021 to the Respondent No. 3 whereby in the 12th Meeting of the CoC, the said Resolution Plans were thereby rejected by the members of the CoC.

24. It is further submitted that Respondent No. 3 convened the 13th Meeting of the CoC dated 12.03.2021 whereby it was resolved to initiate the Liquidation of the Corporate Debtor. Pursuant to the same, the Respondent No. 3 filed an Application under Section 33(1) of the Code before the Hon'ble NCLT seeking the Liquidation of the Corporate Debtor.

25. It is further submitted that the Hon'ble Supreme Court in the matter of ***"K. Shashidar Vs. Indian Overseas Bank" (supra)*** has observed that the commercial wisdom of the Committee of Creditors is supreme in deciding the fate of the Corporate Debtor.

26. It is further submitted that the Hon'ble Supreme Court in the case of ***"Swiss Ribbons Pvt. Ltd. & Anr. Vs. Union of India & Ors."*** held that the primary focus of the legislation is to ensure revival and continuation of the Corporate Debtor by protecting the Corporate Debtor from its own management and from a corporate death by liquidation.

27. Learned Counsel for the Respondent No. 3 further submits that these facts and submissions in the instant case and the law settled by the Hon'ble Supreme Court and also this Appellate Tribunal (supra), the Appeal sense merit, there is no merit in the Appeal and it is fit to be dismissed.

FINDINGS

28. After going through the pleadings as also Written Submissions and heard the arguments advanced on behalf of the parties, we are of the considered view that the following facts are admitted in the case.

i) The appellant on an Application under Section 9 of the IBC filed by one Mr. Sonal Anand which was allowed by the Ld. Adjudication Authority being CP No. (IB)-889 (ND)/2019 against M/s International Trenching Pvt. Ltd. under order dated 08.08.2019 appointed the Appellant as IRP of the Corporate Debtor.

ii) The Committee of Creditors constituted the 1st meeting on 21.09.2019.

iii) As no proposal with regard to appointment of Resolution Professional from any Financial Creditor including Respondent No. 2 - HDFC Bank Limited, was put forth as per the Code, accordingly the Appellant put forward his name for appointment as the Resolution Professional of the Corporate Debtor.

iv) The said resolution was rejected by the Respondent No. 2 being sole member of the Committee of Creditors having 100% voting shares. By agenda 1st meeting of CoC on 21.09.2019 (at page 60 to 79 of the Appeal Paper Book).

v) Further, on an Application was filed by the HDFC Bank – Respondent No. 2 under Section 22(2) of the IBC, 2016 in C.A. 50/C-V/ND/2019, C.A. 80/C-V/ND/2019 in (IB) 889 (ND)/2019 the Adjudicating Authority under order dated 27.11.2019 rejected the prayer for confirmation of appointment of Mr. Ashok Kumar Juneja as RP and given liberty to HDFC Bank – Respondent No. 2 to make a similar prayer, if the appointment of Mr. Ashok Kumar Juneja as RP is confirmed by the CoC under Section 22(2) of the IBC (at page 79 of the Appeal Paper Book) .

vi) The 4th CoC meeting held on 17.12.2019 which was presided by Mohd. Nazim Khan (the Appellant) and agenda *Item No. 14* it was resolved that Ashok Kumar Juneja be substituted with Ms. Deepika Bhugra Prasad as new RP because Mr. Ashok Kumar Juneja has withdrawn his consent (at page 108 to 121 of the Appeal Paper Book).

vii) That one C.A. No. 1381 of 2020 in (IB)-889(ND)/2019 was filed by HDFC Bank – Respondent No. 2 under Section 60(5) & Section 12 of the IBC, 2016 read with Regulation 40 of the IBBI for exclusion of period or in the alternative extension of CIRP.

viii) On 11.12.2020 in I.A. No. 766/2020, the Respondent No. 3 was appointed as the Resolution Professional of the Corporate Debtor (at Annexure-R/3-13, page 231 to 232 of the Reply Affidavit).

ix) The NCLT under order dated 11.12.2020 (at page 235 of the Reply Affidavit of Respondent No. 3) excluded a period of 252 days i.e. from 04.02.2020 to 13.10.2020 and allowed the extension of 90 days with the direction to the RP to expedite the process for seeking Resolution Plan.

x) On the admitted facts and judgment relied by the Respondents particularly in the case of ***"K. Shashidhar Vs. Indian Overseas bank & Ors. reported in 2019 (12) SCC 150"*** paragraph no. 52 wherein Hon'ble Supreme Court has held that **"***The commercial wisdom of CoC has been given paramount status without any judicial intervention***"** and in the instant case the decision taken by the CoC in the commercial wisdom has been approved by the Ld. Adjudicating Authority.

xi) In view of the judgment of this Appellate Tribunal in ***Company Appeal (AT) (Insolvency) No. 882 of 2020 (Naveen Kumar Jain Vs. Committee of Creditors of K.D.K. Enterprises Pvt. Ltd. & Ors)*** wherein this Appellate Tribunal has held that replacement of IRP/RP also falls within the commercial wisdom of the CoC.

ORDER

29 Thus, in view of the above discussions, the Appellant does not have vested any right to continue on the post of IRP / Resolution Professional.

30. For taking all these facts, we are of the considered view that there is no illegality committed by the Ld. Adjudicating Authority while passing the impugned order. The order dated 20.11.2020 passed by the Adjudicating Authority (National Company Law Tribunal, Court No. III), New Delhi in CA-766/2020 in IB-889(ND)/2019 is hereby confirmed. There is no merit in the Appeal. The Appeal is hereby dismissed.

31. Registry to upload the Judgment forthwith on the website of this Appellate Tribunal.

32. Registry is directed to send the copy of this Judgment to the Adjudicating Authority, (National Company Law Tribunal, Court No. III), New Delhi, forthwith.

[Justice Anant Bijay Singh]
Member (Judicial)

[Ms. Shreesha Merla]
Member (Technical)

New Delhi

6th August, 2021

R. Nath.