

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 42 of 2018

IN THE MATTER OF:

**Mr. V. Nagarajan Resolution Professional
in respect of M/s. Cethar Ltd.**

...Appellant

Vs.

M/s. Meenakshi Energy Ltd.

...Respondent

Present: For Appellant: - Mr. R. Subramanian, Advocate

**For Respondent:- Mr. Arijit Mazumdar and Mr. Rishav
Banerjee, Advocates.**

ORDER

01.02.2018 — This appeal has been preferred by the ‘Resolution Professional’ of M/s Cethar Limited against the order dated 18th January, 2018 passed by the Adjudicating Authority (National Company Law Tribunal), Single Bench, Chennai, in Company Application No. 71/IB/2017 in Company Petition No. 511/IB/2017, which reads as follows: -

“ORDER

*Counsel for Applicant/RP filed CA/71/IB/17 in
CP/511/17 raising an issue in the Application that
has been filed by the Respondent before the Arbitral
Tribunal for production of the certificates on
completion of the project. The Arbitral Tribunal vide*

Contd/-.....

its order dated 09.12.2017 has given direction to the Applicant to produce the certificates in relation to the completion of the project in a sealed cover. It has been submitted by the Counsel for the Applicant that the Applicant is under the CIR process and any application cannot be filed before any Court in the light of the provisions of section 14 read with 60 of the IBC, 2016, because the Applicant (Corporate Debtor) will not be able to exercise the 'right of unpaid vendor lien'.

Counsel for the Respondent submitted that the Arbitral Tribunal has passed a detailed order. The Arbitral Tribunal is also conscious of the fact that in case the Corporate Debtor departs with the certificates of the completion of the Project, there may be financial implications. The Arbitral Tribunal while passing the order observed that "an interim direction is to avoid any controversy on the aspect, whether all the certificates obtained and in the custody of the claimant are made available. Further, the question whether any condition regarding the payment of the

amounts said to be due to the claimant, after the initiation of Arbitration Proceedings, has to be imposed, may have also to be considered". In view of these observations, the Applicant may raise the issue before the Arbitral Tribunal for consideration. Accordingly, the Application stands disposed of."

2. We have heard learned counsel appearing on behalf of the 'Insolvency Resolution Professional' and Mr. Arijit Mazumdar, Advocate who has appeared on behalf of the Respondent.

3. Having heard learned counsel for the parties, we are of the opinion that the handing over or showing any document to any party will not amount to violation of order of 'Moratorium'.

4. In view of such observation, learned counsel for the 'Resolution Professional' sought permission to withdraw this appeal. Prayer is allowed. The appeal is dismissed as withdrawn.

(Justice S.J. Mukhopadhaya)
Chairperson

(Justice Bansi Lal Bhat)
Member(Judicial)

Ar/uk