

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 485 of 2018**

**IN THE MATTER OF:**

**Lalan Kumar Singh**

**...Appellant**

**Vs**

**Phoenix ARC Pvt. Ltd. & Ors.**

**....Respondents**

**Present:**

**For Appellant: Ms. Pooja Mahajan, Ms. Mahima Singh, Mr. Gaurav Arora, Advocates and Mr. Sanjeev Deora, CA.**

**For Respondents: Mr. Manish Jain and Ms. Divya Sharma, Advocates for R-1.**

**Mr. Sanyam Goel, PCS, Mr. Jalesh Kumar Grover, Resolution Professional for R-2.**

**O R D E R**

**27.08.2018:** Learned senior counsel appearing on behalf of the Appellant submits that in terms of the agreement the facility deposit amount lying with the HSBC Mauritius ought to have been invoked instead of initiating a Corporate Insolvency Resolution Process. Though this fact was brought to the notice of the Adjudicating Authority but the Adjudicating Authority has not appreciated it.

Let notice be issued on respondents. Mr. Manish Jain, Advocate accepts notice on behalf of 1<sup>st</sup> Respondent. Mr. Sanyam Goel, PCS, accepts notice on behalf of 2<sup>nd</sup> Respondent. No further notice need to be issued on them. They may file their respective reply alongwith vakalatnama within 10 days. Rejoinder, if any, be filed by the Appellant within a week thereof.

Post the case 'for admission' on **19<sup>th</sup> September, 2018**. Appeal may be disposed of on the next date.

During pendency of the appeal, the Resolution Professional will ensure that the company remains going concern and if so necessary may take assistance of the (suspended) Board of Directors. The person who is authorised to sign the bank cheques may issue cheques only after authorisation of the Resolution Professional. The bank account(s) of the 'Corporate Debtor(s)' be allowed to be operated for day-to-day functioning of the company such as for payment of current bills of the suppliers, salaries and wages of the employees'/workmen, water and electricity bills etc.

[Justice S. J. Mukhopadhaya]  
Chairperson

[Justice Bansi Lal Bhat]  
Member (Judicial)

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