

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

**Company Appeal (AT) (Insolvency) No. 206 of 2018**

**IN THE MATTER OF:**

**SKS Power Generation Chattisgarh Ltd.**

**...Appellant**

**Vs.**

**Mr. V Nagarajan, Resolution Professional,  
In respect of M/s. Cethar Ltd. & Ors.**

**...Respondents**

**Present: For Appellant: - Mr. Arun Kathpalia, Senior Advocate  
assisted by Mr. Atul S. Mathur, Mr. Sweta Singh and Mr.  
Samaksh Goyal, Advocates.**

**O R D E R**

**11.05.2018-** Admittedly, the ‘Corporate Insolvency Resolution Process’ has been initiated against M/s. Cethar Limited at the instance of LLOYD Insulations India Ltd. (‘Operational Creditor’) and pending ‘Resolution Process’ through the ‘Resolution Professional’.

By the impugned order dated 24<sup>th</sup> April, 2018, the Adjudicating Authority (National Company Law Tribunal), Chennai Bench, Chennai directed the Appellant to pay Rs. 158 crores purported to have been received by him from ‘SKS Ispat & Power Ltd.’ and to pay the same in favour of the ‘Corporate Debtor’ through the ‘Resolution Professional’. However, it is not clear under which jurisdiction the Adjudicating Authority can direct one or other third party to pay certain amount to the ‘Corporate Debtor’. If any amount is due to the ‘Corporate Debtor’ then the ‘Resolution Professional’ can move an application for recovery of amount or by triggering ‘Corporate Insolvency Resolution Process’ if permissible. But *prima facie* we feel that recovery cannot be made in a

Contd/-.....

Resolution Process initiated under Section 9 of the Insolvency and Bankruptcy Code, 2016. Further, we find that the impugned order is a non-speaking order.

The Appellant is allowed to implead the 'Operational Creditor' as party Respondent No.3.

Let notice be issued on Respondents by speed post. Requisite along with process fee, if not filed, be filed by 14<sup>th</sup> May, 2018. If the Appellant provides the e-mail address of the Respondents, let notice be also issued through e-mail.

Post the matter on 29<sup>th</sup> May, 2018.

Until further orders, the operation of the impugned order dated 24<sup>th</sup> April, 2018 passed in CP/511/(IB)/2017 shall remain stayed. However, 'Corporate Insolvency Resolution Process' will continue.

(Justice S.J. Mukhopadhaya)  
Chairperson

(Justice Bansi Lal Bhat)  
Member(Judicial)

Ar/uk