

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 260 of 2019

IN THE MATTER OF:

M/s. JDA Consultancy Services Pvt. Ltd. Appellant

Vs

M/s. Asset Reconstruction Company
(India) Ltd. & Ors. Respondents

Present:

**For Appellant: Mr. Arun Kathpalia, Senior Advocate with
Mr. Goutham Shivshankr and Mr. Shantanu
Singh, Advocates.**

**For Respondents: Mr. Om Prakash, Senior Advocate with Ms.
Anne Mathew, Advocate for Respondent No.1.**

**Mr. Mayank Pandey, Advocate for Respondent
No.3.**

**Mr. Pallav Mongia, Advocate for Interim
Resolution Professional.**

With

Company Appeal (AT) (Insolvency) No. 514 of 2019

IN THE MATTER OF:

Anandcine Service Pvt. Ltd. Appellant

Vs

Asset Reconstruction Company
(India) Ltd. & Anr. Respondents

Present:

For Appellant: Mr. Mithun Verghis, Advocate.

**For Respondents: Mr. Om Prakash, Senior Advocate with Ms.
Anne Mathew, Advocate for Respondent No.1.**

ORDER

22.07.2019

Company Appeal (AT) (Insolvency) No. 260 of 2019

The Appellant claims to be 'Assignee' of Mr. K. Bapaiah and Mrs. Indira Anand, shareholders/ erstwhile shareholders ('Unsecured Financial Creditors') of the 'Corporate Debtor'. Initially, the Appellant was taken as a Member of the 'Committee of Creditors', but subsequently, in view of the objections raised by M/s. Asset Reconstruction Company (India) Limited, the Adjudicating Authority by impugned order dated 5th March, 2019 held that the Appellant being 'Assignee' of the '*related party*' cannot be Member of the 'Committee of Creditors'.

2. Learned Senior Counsel who is appearing on behalf of the Appellant submitted that the Adjudicating Authority has given wrong finding and the case is covered by the decision of this Appellate Tribunal in ***Pr. Director General of Income Tax (Admn. & TPS) vs. M/s. Synergies Dooray Automotive Ltd. & Ors. (etc.) – Company Appeal (AT) (Insolvency) No.205 of 2017 decided on 20th March, 2019*** and ***Mrs. Mamatha vs. AMB Infrabuild Pvt. Ltd. & Ors. – Company Appeal (AT) (Insolvency) No.155 of 2018 decided on 30th November, 2018.***

3. While the aforesaid submission has been opposed by the Counsel appearing on behalf of M/s Asset Reconstruction Company (India) Limited, it is submitted that now more than 270 days have passed and the matter is pending before the Adjudicating Authority for liquidation in absence of approved 'Resolution Plan'. It is also submitted that the Adjudicating Authority held that the Appellant and the 'Corporate Debtor' are joint venture companies.

4. In the facts and circumstances, as more than 270 days have already lapsed, the issue of fact and law in this Appeal has become academic and it can be decided in some other case and we are not inclined to decide the issue in the present Appeal. The Adjudicating Authority may pass appropriate order in accordance with law. The Appeal stands disposed of.

Company Appeal (AT) (Insolvency) No. 514 of 2019

This Appeal also arises out of the same 'Corporate Insolvency Resolution Process' initiated against M/s. Anandram Developers Private Limited. In this case, the Adjudicating Authority (National Company Law Tribunal), Single Bench, Chennai by impugned order dated 27th March, 2019 held that the Appellant-Anandcine Services Pvt. Ltd. is a '*related party*' and thereby has not allowed to be Member of the 'Committee of Creditors'.

2. Mr. Mithun Verghis, Counsel appearing on behalf of the Appellant requested to accommodate Mr. Prakash, Senior Counsel for the Appellant. However, as more than 270 days have already been passed, we are not inclined to decide the issue as raised in this Appeal. We keep the issue both facts and law open for determination in some other case, as ordered in the connected Appeal. Both the Appeals stand disposed of.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice A.I.S. Cheema]
Member (Judicial)

[Kanthi Narahari]
Member (Technical)

Ash/SK