

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON' BLE SRI JUSTICE GUDISEVA SHYAM PRASAD**

Writ Petition No.31395 of 2017

Order: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

The relief sought for in this Writ Petition is to call for the records from the National Company Law Appellate Tribunal and the National Company Tribunal in proceedings in Company Appeal (AT) (Insolvency) No. 167 of 2017 and C.P.(IB) No.100/9/HDB/2017 respectively, and to set aside the same.

The petitioner had invoked the jurisdiction of the National Company Law Appellate Tribunal (hereinafter called "the NCLAT") against the order passed by the National Company Law Tribunal (for brevity "the NCLT") in CP(IB) No.100/9/HDB/2017 dated 29.8.2017 whereby an Interim Resolution professional was appointed, and several directions were issued. The NCLAT, by its order dated 7.9.2017, had directed the Interim Resolution Professional to ensure that the company remains on going; and if necessary, to take the assistance of the suspended Board of Directors. A direction was issued that the bank account, if operated, should be operated for the day-to- day functioning of the company, its project and for payment of bills to the suppliers; and if anything was purchased, payment should be made by the bank. Payment of salaries and wages of the employees/workmen and others were directed to be made.

In its order in Company Appeal (AT) (Insolvency) No. 167 of 2017 dated 20.11.2017, the NCLAT observed that, in view of the provisions of law referred to in the order and the mandate of the I&B Code, no person could take advantage of the pendency of a case under Section 34 of the Arbitration and Conciliation Act, 1996 to stall Corporate Insolvency

Resolution Process under Section 9 of the I&B Code; and, in view of the findings in the order, no interference was called for against the impugned order dated 29.8.2017. The Appeal was dismissed.

As the jurisdiction of this Court was invoked against the interim order passed by the NCLAT dated 7.9.2017, and as the appeal preferred against the interlocutory order passed by the NCLT dated 29.8.2017 appointing an Interim Resolution Professional has itself been dismissed, it is evident that the cause in the Writ Petition no longer survives necessitating any further adjudication by this Court.

While Sri S. Ravi, learned Senior Counsel, would submit that the order of the NCLAT dated 20.11.2017 has also been subjected to challenge and is listed on our Board today, the validity of the order of the NCLAT can only be examined in the said Writ Petition and not in these proceedings.

As it is evident that the cause in this Writ Petition does not survive, necessitating any further adjudication by this Court, the Writ Petition fails and is, accordingly, dismissed. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(GUDISEVA SHYAM PRASAD, J)

24th November, 2017

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THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON' BLE SRI JUSTICE GUDISEVA SHYAM PRASAD



Writ Petition No.31395 of 2017

Date: 24.11.2017

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