

**Insolvency and Bankruptcy Board of India**  
**7th Floor, Mayur Bhawan, Connaught Place, New Delhi – 110001**

**23<sup>rd</sup> December, 2022**

**Subject: Judgment [1] dated 19<sup>th</sup> December, 2022, in the matter of Alliance Broadband Services Private Limited Vs. Manthan Broadband Services Private Limited [CS/54/2019]**

**I. Brief Background:**

1. The Manthan Broadband Services Private Limited, Corporate Debtor (CD) had taken a loan of Rs. 10.20 crore along with interest against a security of title deeds of three lands parcels measuring 10.08 acres and 77,500 equity shares. On default the petitioner filed an application under Section 7 of the Insolvency and Bankruptcy Code, 2016 (Code) before the NCLT, Kolkata for initiation of Corporate Insolvency Resolution Process (CIRP) against the CD and the same was admitted on 18.09.2019 by the Adjudicating Authority (AA).

2. However, by an order dated 06.04.2022 of the AA, liquidation proceeding was initiated thereby lifting the moratorium under section 14 of the Code and a Liquidator was appointed. The petitioner filed its claim of Rs. 14,47,32,521/- against the CD before the Liquidator. After lodging the claim, the petitioner requested the Liquidator to release the securities in satisfaction of the claim in accordance with law, as the same cannot be part of liquidation estate of the CD. The Liquidator submitted that petitioner has to make an application to the AA to facilitate the secured creditor to realize such security interest in accordance with section 52(5) of the Code.

3. The Hon'ble High Court observed that under section 60 of Code, the object is to ensure that the CIRP of the CD and subsequent process of the very same CD do not proceed on different tracks, before different forum, leading to conflict of interest, situations or decisions. Hence, single forum may deal with both. The petitioner had filed the application for initiation of CIRP but is now apprehending that the Liquidator will take the control and possession of the shares and filed application before the High Court. Therefore, the High Court did not pass any interim order at this stage as NCLT was the appropriate forum.

**Analysis:** The High Court restrained from taking any action as the NCLT could more appropriately and effectively decided and adjudicated the matter as empowered under Insolvency and Bankruptcy Code, 2016.

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