

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 686 of 2019

IN THE MATTER OF:

Pepsico India Holding Pvt. Ltd.

...Appellant

Versus

**V. Nagarajan,
R.P. of Oceanic Tropical Fruits Pvt. Ltd.**

...Respondent

Present:

For Appellant :

**Mr. Rajeev Mehra, Senior Advocate
Mr. Dheeraj Nair, Mr. Manish Jha, Ms. Vishnityi
Sahni and Ms. Niti A. Sachar, Advocates**

ORDER

05.07.2019 Learned counsel for the Appellant submits that the machinery in question belongs to the Appellant and is at the premises of the 'Corporate Debtor' and the 'Liquidator' is bound to hand over the machinery to the Appellant.

From the arguments of the Appellant, we find that the machinery was supplied by the Appellant to the 'Corporate Debtor' for producing beverages juices, Mirinda cups. From such submissions it transpires that the machinery for the present is required for the company to keep it a going concern, even if it belongs to the Appellant. In the circumstances, while we issue Notice to the Liquidator but also ask the Appellant to state that even if we decide that the machinery belongs to it, why it be not allowed to be kept with the 'Liquidator' for keeping the company a going concern with same terms & conditions as it had with 'Corporate Debtor'. Requisite along with process fee, if not filed, be filed by 8th July, 2019.

Learned counsel for the Appellant may file an additional affidavit within 10 days on the question as we have raised.

Post the case 'for Admission (After Notice)' on 7th August, 2019.

In the meantime, till further orders, the 'Liquidator' will also ensure that the company remains going concern and will follow the directions given by this Appellate Tribunal in "**Y. Shivram Prasad Vs. S. Dhanapal & Ors.- Company Appeal (AT) (Insolvency) No. 224 of 2018 etc.**" disposed of on 27th February, 2019.

[Justice S.J. Mukhopadhaya]
Chairperson

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

[Kanthi Narahari]
Member (Technical)

/ns/gc