

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

**Company Appeal (AT) (Insolvency) No. 284 of 2019**

**IN THE MATTER OF:**

**Power Grid Corporation of India** **...Appellant**

**Vs.**

**Deepak Cables (India) Limited** **...Respondent**

**Present: For Appellant: - Ms. Gunjan Arora, Advocate.**

**For Respondent: - Mr. P.V. Dinesh, Mr. R.S. Lakshman  
and Mr. Ashwini Kumar Singh, Advocates.**

**Company Appeal (AT) (Insolvency) No. 297 of 2019**

**IN THE MATTER OF:**

**Power Grid Corporation of India** **...Appellant**

**Vs.**

**Deepak Cables (India) Limited** **...Respondent**

**Present: For Appellant: - Mr. Joshua Samuel and Mr. Rajat  
Agnihotri, Advocates.**

**For Respondent: - Mr. P.V. Dinesh, Mr. R.S. Lakshman  
and Mr. Ashwini Kumar Singh, Advocates.**

**Company Appeal (AT) (Insolvency) No. 310 of 2019**

**IN THE MATTER OF:**

**Power Grid Corporation of India** **...Appellant**

**Vs.**

Contd/-.....

**Deepak Cables (India) Limited**

**...Respondent**

**Present: For Appellant: - Mr. Joshua Samuel and Mr. Rajat Agnihotri, Advocates.**

**For Respondent: - Mr. P.V. Dinesh, Mr. R.S. Lakshman and Mr. Ashwini Kumar Singh, Advocates.**

**Company Appeal (AT) (Insolvency) No. 348 of 2019**

**IN THE MATTER OF:**

**Powergrid Corporation of India Ltd.**

**...Appellant**

**Vs.**

**Deepak Cables (India) Limited**

**...Respondent**

**Present: For Appellant: - Mr. Joshua Samuel and Mr. Rajat Agnihotri, Advocates.**

**For Respondent: - Mr. P.V. Dinesh, Mr. R.S. Lakshman and Mr. Ashwini Kumar Singh, Advocates.**

**O R D E R**

**18.07.2019—** In the ‘Corporate Insolvency Resolution Process’ against ‘M/s. Deepak Cables (India) Ltd.’- (‘Corporate Debtor’), the Appellant filed separate claims region wise. The Appellant’s claim is that the ‘Corporate Debtor’ was to supply certain goods and required to provide certain services but total goods have not been supplied, nor total services completed and, therefore, they raised certain claims as

‘Operational Creditor’. The ‘Resolution Professional’ rejected the claim on the ground that the Appellant is not ‘Operational Creditor’ and with regard to their claim arbitration is pending wherein claim petition filed by ‘Deepak Cables (India) Limited’ and counter claim raised by the Appellant- ‘Power Grid Corporation of India’.

2. The Appellant filed separate application under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (‘I&B Code’ for short) before the Adjudicating Authority (National Company Law Tribunal), Bengaluru Bench, Bengaluru, which having rejected by common order dated 30<sup>th</sup> January, 2019, these appeals have been preferred by common Appellant- ‘Power Grid Corporation of India’.

3. The Appellant has taken similar plea before this Appellate Tribunal as was taken before the ‘Resolution Professional’ and the Adjudicating Authority. Mr. R.S. Lakshman appearing on behalf of the ‘Resolution Professional’ submits that subsequently the Adjudicating Authority has passed order of liquidation on 4<sup>th</sup> July, 2019.

4. In view of the aforesaid development, we are not inclined to decide the claim of the Appellant at this stage as the Appellant will get right to file fresh claim application before the liquidator who is required to decide the same in terms of Sections 38 & 39 of the ‘I&B Code’. In such case, if the claim of the Appellant is rejected by the liquidator under Section 40,

it will be open to the Appellant to prefer an appeal against the decision of the liquidator under Section 42 of the 'I&B Code'.

5. So far as pendency of the arbitration proceeding is concerned, after liquidation it is open to the Arbitral Tribunal to proceed in the arbitration. However, we are not inclined to express any opinion with regard to the same. We are of the view that if the claim is filed by the 'Corporate Debtor'- 'Deepak Cables (India) Limited', there is no bar to proceed in the arbitration and if it proceeds, its counter claim is to be decided. If the counter claim is awarded in favour of the Appellant and if certain amount is payable to it, it can take advantage of the same.

6. It is informed that about six arbitration proceedings are pending. In some of them, 'M/s. Power Grid Corporation of India Limited' has filed claim. In some of the other arbitration proceedings where claim petition is filed by 'Deepak Cables (India) Limited', particularly regional office or the Appellant-'M/s. Power Grid Corporation of India Limited' has filed counter claim.

7. It is also informed that the arbitration proceeding is stayed by the Hon'ble High Court of Delhi in respect of four matters. If that be so, the arbitration proceeding will be decided by the decision of the Hon'ble High Court of Delhi. However, the pendency of the case before the Hon'ble High Court is not to come in the way of the liquidator to decide the claim in terms of the aforesaid provision as noticed above.

8. We make it clear that we have not expressed any opinion with regard to the claim of the Appellant, it may be decided by the appropriate authority/ arbitration proceeding.

All the appeals stand disposed of with aforesaid liberty. No cost.

(Justice S.J. Mukhopadhaya)  
Chairperson

(Kanthi Narahari)  
Member(Technical)

Ar/g