

**IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI**  
**SPECIAL BENCH**

(IB)-02(PB)/2017

**IN THE MATTER OF:**

**Nikhil Mehta & Sons (HUF) & Ors.**

.....Petitioners

**v.**

**M/s. AMR Infrastructure Ltd.**

.....Respondent

**SECTION : UNDER SECTION 7**

**Order delivered on 20.12.2017**

**Coram:**

**CHIEF JUSTICE M.M. KUMAR**

**Hon'ble President**

**R. Varadharajan**

**Hon'ble Member (J)**

**For the Petitioner(s): Mr. Varun Kathuria, Advocate**

**For the Respondent(s): Mr. Ajay Verma & Upendra Yogesh, Advocates**  
**Mr. Manu Bansal, Advocate**

**ORDER**

The Hon'ble Appellate Tribunal in the case of M/s. Unigreen Global Private Limited v. Punjab National Bank & Ors., Company Appeal (AT) (Insolvency) No. 81 of 2017 decided on 01.12.2017 as well as in the case of Forech India Private Limited v. Edelweiss Assets Reconstruction Company Ltd. & Anr., Company Appeal (AT) (Insolvency) No. 202 of 2017 decided on 23.11.2017 has taken a view that no application under Section 7, 9 & 10 of IBC, 2016 would be maintainable in case a liquidation order has been passed in respect of the same Corporate Debtor in a winding up proceeding either by the High Court or by the Tribunal. In that regard reliance has been placed on the ineligibility clause in Section 11 (d) of the IBC and the meaning of the word 'winding up' given in Section 2 (23) and 94A. The view of the Hon'ble Appellate Tribunal is binding on us as per the principles of stare decisis and the precedents. Therefore, it will not be necessary to wait for the order of the Three Members' Bench which is yet to be pronounced.

We have heard learned counsel for the parties and find that reply to the petition has not been filed.

Learned counsel for the respondent states that one last opportunity be granted to file the reply.

Let the reply be filed within ten days with a copy in advance to the other side. It shall be treated as last opportunity.

Rejoinder, if any be filed within five days thereafter with a copy in advance to the other side.

A copy of the complete paper book be handed over to the learned counsel for the respondents during the course of the day.

List for further consideration on 12.01.2018.

Sd/—

**(CHIEF JUSTICE M.M. KUMAR)  
PRESIDENT**

Sd/—

**(R. VARADHARAJAN)  
(MEMBER JUDICIAL)**

20.12.2017  
Vineet