

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

**(IB)-02(PB)/2017**

**IN THE MATTER OF:**

Nikhil Mehta & sons (HUF) & Ors.

.... **APPLICANT / PETITIONER**

**Vs**

M/s. AMR Infrastructure Ltd.

.... **RESPONDENT**

**SECTION:**

**Under Section 7 of Insolvency & Bankruptcy Code, 2016**

**Order delivered on 16.02.2018**

**Coram:**

**CHIEF JUSTICE (RTD.) M. M. KUMAR  
HON'BLE PRESIDENT**

**R. VARADHARAJAN  
HON'BLE MEMBER (JUDICIAL)**

**PRESENTS:**

**For the Petitioner(s):-**

**Mr. Varun Kathuria, Advocate**

**For the Respondent(s):-**

**Mr. Sidharth Bauthia, Advocate for  
the Intervener**

**ORDER**

Learned counsel for the petitioner has shown us an order dated 05.02.2018 passed by Hon'ble the Appellate Tribunal in Company Appeal (AT) (Insolvency) No. 12/2017. A perusal of the order shows that Hon'ble the Appellate Tribunal has not been apprised as to why the case of Nikhil Mehta v. AMR Infrastructure Ltd. i.e. C.P. No. (IB)-02(PB)/2017 was still pending. A perusal of the record shows that the remand order was passed by Hon'ble the Appellate Tribunal on 21.07.2017 and Respondent-AMR Infrastructure Ltd. has not filed the reply despite various opportunities were granted. Moreover, against the Respondent-AMR Infrastructure Ltd. company petitions under Section 433 (e) of the Companies Act were pending before the Hon'ble Delhi High Court and the question of law was referred to Three Members Bench as is evident from the order dated 08.12.2017. In the meanwhile, Hon'ble the Appellate Tribunal took the view in the case of M/s. Unigreen Global Private Limited v. Punjab National Bank & Ors., Company

 VINEET

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 holding that mere pendency of a company petition before the High Court would not constitute a bar for maintaining a petition under Section 7, 9 & 10 of IBC, 2016. On account of the aforesaid circumstances delay has been caused. Reply despite opportunity has not been filed.

List the matter for arguments on 09.03.2018 before the Principal Bench (Regular).

16.02.2018

Sd/-

**(M. M. KUMAR)**  
**PRESIDENT**

Sd/-

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