

MRS. ANITA GOYAL VS VISTRA ITCL (INDIA) LIMITED

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The uploaded document primarily focuses on the appeals (Company Appeal (AT) (Insolvency) Nos. 2282 and 2283 of 2024) before the National Company Law Appellate Tribunal (NCLAT), Principal Bench, New Delhi. Below is a summary under the requested heads:

Details of the Parties

1. Appellants:

- Anita Goyal
 - Ayush Goel
- (Both are personal guarantors of Nivaya ASL Pvt. Ltd., the corporate debtor.)*

2. Respondents:

- Vistra ITCL (India) Ltd. (Financial Creditor)
- Resolution Professional (RP), Shri Vikram Bajaj

Facts of the Case

- Vistra ITCL filed applications under Section 95 of the Insolvency and Bankruptcy Code (IBC), 2016, against the appellants as personal guarantors to Nivaya ASL Pvt. Ltd.
- The National Company Law Tribunal (NCLT), Principal Bench, New Delhi, appointed an RP for the insolvency resolution process on April 29, 2024.
- Objections were raised regarding the appointment of the RP and the jurisdiction of NCLT.
- On December 4, 2024, the NCLT admitted the insolvency applications under Section 100 of the IBC, prompting

these appeals.

Issues Involved

1. Appointment of RP:

- The appellants argued that the appointment of the RP was not in compliance with Section 97(3) of the IBC, as the adjudicating authority relied on an IBBI circular instead of nominating an RP through the board.

2. Jurisdiction of NCLT:

- It was contended that the proper authority for insolvency proceedings against personal guarantors is the Debts Recovery Tribunal (DRT), not the NCLT.

Judgment

- The NCLAT dismissed the appellants' objections:
 - 1. Regarding RP Appointment:** The tribunal ruled that the RP's appointment followed the law, and reliance on the IBBI circular did not contravene Section 97(3).
 - 2. Regarding NCLT Jurisdiction:** The tribunal upheld that the NCLT has jurisdiction over insolvency proceedings involving personal guarantors of corporate debtors, even if no CIRP is pending against the corporate debtor.

Conclusion

- The appeals were dismissed, affirming the NCLT's order admitting the insolvency applications.
- The tribunal clarified that insolvency proceedings against personal guarantors can proceed before the NCLT under Section 60(1) of the IBC, irrespective of whether proceedings against the corporate debtor are ongoing.

If you need further details or clarification on any specific

aspect, let me know!