NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 82 of 2020

IN THE MATTER OF:

Shadab Khan   ...Appellant

Versus

M/s. Nisus Finance and Investment
Manager & Ors.   ...Respondents

Present:

For Appellant :   Mr. Amit Pawan, Mr. Hassan Zubair Waris, Mr. Rohit Rajershi, Dr. Farrukh Khan and Mr. Ateendra Singh, Advocates

For Respondents: Mr. Shikhil Suri, Advocate for 1st & 2nd Respondent

O R D E R

17.01.2020   Learned counsel for the Appellant submits that the case is covered by the decision of this Appellate Tribunal in *'Dr. Vishnu Kumar Agarwal vs. M/s. Piramal Entgerprises Ltd.'* and the Adjudicating Authority cannot ignore the decision merely on the ground of initiation of the 'Corporate Insolvency Resolution Process' against the 'principal borrower' namely 'M/s. Earth Infracon Pvt. Ltd.

Further, according to him, after initiation of the 'corporate insolvency resolution process' against the 'principal borrower' which the Hon'ble Supreme Court has stayed, then the same benefit should go to the guarantor(s).

Mr. Shikhil Suri, Advocate appears on behalf of the 1st and 2nd Respondents. He is allowed to file reply-affidavit within a week.

Let notice be issued on rest of the Respondents by Speed Post. Requisites along with process fee be filed by 18th January, 2020.

During the pendency of the appeal, the 'Interim Resolution Professional' will not constitute the 'Committee of Creditors' if not yet constituted. However, he will ensure that the company remains a going concern and construction work will not stop. It will also be open to him to take the work from the 'Operational Creditor' to complete the project.

Post the case 'for orders' on **3rd February, 2020.** The appeal may be disposed of on the next date.

This order will not come in the way of the Appellant to settle the matter.

<div align="right">

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

</div>

/ns/RR/