

NATIONAL COMPANY LAW APPELLATE TRIBUNAL

NEW DELHI

COMPANY APPEAL (AT) (Insolvency) No.16 OF 2017

In the matter of:

ASTRA Offshore SDN BHD

Appellant

Versus

Swiber Offshore (India) Pvt Ltd

Respondent

Present: Mr. Sanjay Grover, Advocate for the appellant.

ORDER

01.05.2017- Learned counsel for the appellant submits that against corporate debtor M/s Swiber Offshore (India) Pvt Ltd, another petition under Section 9 of the Insolvency & Bankruptcy Code, 2016 was filed by one Mr. Ajay Joseph, Proprietor of M/s Global Marine Supply Company. The adjudicating authority, National Company Law Tribunal, Mumbai Bench, vide its order dated 31.3.2017 in CP No.51/1 & BP/NCLT/MAH/2017 admitted the petition, declared moratorium and passed consequential directions, as mentioned below:-

“i. That this Bench hereby prohibits the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority; transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein; any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitization and reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.

ii. That the supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.

iii. That the provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

iv. That the order of moratorium shall have effect from 31.03.2017 till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under Section 33, as the case may be.

v. That the public announcement of corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.

vi. that the Bench hereby appoints Mr. Rajeev Mannadiar, Registration No. IBBI/ IPA-01/ IP-00320/2016-17/1904 residing at Rustomjee Azziani, Flat No.1501, 15th floor, A Wing, Near Saket Complex Majiwada, Thana (West) – 400601, Email: mannadiarrajeev@yahoo.co.in as interim resolution professional to carry the functions as mentioned under Insolvency & Bankruptcy Code.

8. Accordingly, this Petition is admitted.”

In view of aforesaid direction of the Adjudicating Authority, National Company Law Tribunal, Mumbai Bench against the corporate debtor, learned counsel for the appellant sought permission to withdraw the appeal to enable the appellant to raise its claim before the ‘Interim Resolution Professional’.

In spite of notice to the respondent it has not turned up, nor appeared. In the circumstances we allow the appellant to withdraw the appeal with liberty to move before Interim Resolution Professional raising its claim. However, we make it clear that we have not decided the question as to whether the appellant is entitled to any amount as per the provisions of

Insolvency & Bankruptcy code, 2016 which may be decided by the appropriate authority. The appeal stands disposed of as withdrawn with the aforesaid observations.

(Justice S. J. Mukhopadhyaya)
Chairperson

(Mr. Balvinder Singh)
Member (Technical)

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