

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI**  
**Company Appeal (AT) (Insolvency) No. 306 of 2020**  
**&**  
**I.A. No. 2460 of 2020**

**IN THE MATTER OF:**

**K. Bapaiah,  
Promoter & Erstwhile Director of  
M/s. Anandram Developers Pvt. Ltd.,  
22/15, Seethammal Colony,  
3<sup>rd</sup> Main Road, Alwarpet,  
Chennai - 600018**

**...Appellant**

**Versus**

**1. The Asset Reconstruction Company (India) Ltd.,  
Rep by its Directors Authorised Signatory,  
Having Office at No. 769, No. 715-C,  
Phase - 2, Spencers Plaza, 7<sup>th</sup> Floor,  
Anna Salai, Chennai - 600003.**

**2. Ms. Santhanam Jayashree,  
Liquidator of Anandram Developers Pvt. Ltd.,  
No. 2, South Dhandapani Street,  
(Main Arcade), Burkit Road,  
Ground Floor, T. Nagar,  
Chennai - 600017**

**...Respondents**

**Present:-**

**For Appellant: Mr. Gautam Singh, Advocate.**

**For Respondent: Mr. Gaurav Ray, Mr. Deep Roy and  
Mr. Nishith Doshi, Advocates for R-1.  
Mr. Bhavana Duhoon, Advocate for R-2.  
Mr. Rajashree Santhanam, Liquidator.**

**ORDER**  
**(Virtual Mode)**

**02.11.2020** Heard Learned Counsel for both sides. Learned Counsel for the Appellant submits that this Appeal has been filed against impugned order dated 11<sup>th</sup> February, 2020 passed in M.A. No. 463 of 2019 in CP/603/IB/2017 by Adjudicating Authority, Chennai Bench. Chennai. It is stated that Application under Section 7 of Insolvency and Bankruptcy Code, 2016 (IBC-in short) was

filed by Respondent M/s. Asset Reconstruction Company (India) Ltd. (ARCIL) against Corporate Debtor M/s. Anandram Developers Pvt. Ltd.. The same was admitted by Adjudicating Authority on 06<sup>th</sup> June, 2018. The present Appellant is promoter of the Corporate Debtor. Subsequently, the 'CIRP' period came to be extended by order dated 04<sup>th</sup> December, 2018. 26 days were excluded vide order dated 08<sup>th</sup> March, 2019. It is accepted position that during the period of 'CIRP', no Resolution Plan was received. The Resolution Professional filed Application under Section 33 of IBC. The same was filed on 24<sup>th</sup> April, 2019. The Appellant claims that after the Application under Section 33 of IBC was filed, the Appellant and ARCIL which has 100% voting share in the Committee of Creditors had meeting and one-time settlement was being considered. This was informed to the Adjudicating Authority. The Learned Counsel submitted that in spite of this, the Adjudicating Authority listed the M.A. No. 463 of 2019 along with M.A. No. 732 of 2019. The Adjudicating Authority passed orders in both these M.As on 31<sup>st</sup> December, 2019. M.A. No. 732 of 2019 which was filed by the Applicant to intervene in the M.A. No. 463 of 2019 and which sought appointment of Mr. S. Ramachandran as Liquidator, came to be disposed of, as the said person had not given consent. The Adjudicating Authority passed certain orders recorded findings with regard to M.A. No. 463 of 2019 and directed that the same is to come up for further orders on 11<sup>th</sup> February, 2020, as the same was to be taken up for passing order of liquidation by appointing such Insolvency Professional as Liquidator as may be proposed by IBBI.

2. The Appellant claims that after such order dated 31<sup>st</sup> December, 2019, the Appellant filed Application under Section 60 (5) of IBC that settlement has been arrived at with the Respondent/ARCIL. Later, demand draft dated 10<sup>th</sup>

December, 2020 was issued in favour of the ARCIL for Rs. 4,08,06,591.00/- and the settlement was accepted by Respondent. Appellant transferred further amount of Rs. 91,93,481.00/- to the ARCIL on 23<sup>rd</sup> January, 2020 and thus Rs. 5 Crores has been paid out of Rs. 90 Crores it is claimed. According to the Appellant, an Application was filed before the Adjudicating Authority on 29<sup>th</sup> January, 2020 requesting that settlement has been arrived at. On 03<sup>rd</sup> February, 2020, ARCIL also informed the Adjudicating Authority about settlement arrived at and on 06<sup>th</sup> February, 2020 ARCIL had filed affidavit. The case of Appellant is that in spite of this, the Adjudicating Authority passed impugned order dated 11<sup>th</sup> February, 2020 appointing Ms. Santhanam Jayashree as Liquidator whose name had been communicated by IBBI.

3. Against this, the Learned Counsel for Respondent/ARCIL submits that after paying initial amount, the Appellant has failed to pay the further amounts and the settlement which is being referred by the Appellant has already failed. The Learned Counsel submits that the Respondent is no more supporting the Appellant that there is settlement.

4. Having gone through the matter, when it is an admitted fact that during the Time limit provided under Section 12 of IBC, no Resolution Plan was received, the necessary consequence of liquidation order could not be avoided. For this, the Application was moved. Subsequently, the Appellant started claiming that there is a settlement and paid some amount. However, even that is now reported to have failed. The Appellant has not placed on record material as to who were the other claimants other than the 100% Financial Creditor namely Respondent/ARCIL during CIRP. During 'CIRP', once CoC has been formed, Procedure under Section 12 A of IBC would be required to be followed.

This does not appear to have been followed before the liquidation order was passed.

As such, there is no substance in the Appeal. The Appeal is dismissed.

**[Justice A.I.S. Cheema]**  
**Member (Judicial)**

**[V.P. Singh]**  
**Member (Technical)**

Basant B./nn/