

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 4 of 2017**

**IN THE MATTER OF**

**M/s. Raipur Power & Steel Ltd. & Ors. ... Appellant**

**Vs.**

**M/s. Tomorrow Sales Agency Pvt. Ltd. ... Respondent**

**Present: For Appellant:- Mr Abhinav Vashisht, Sr. Advocate, Mr Varun Jain, Mr Sourabh Gupta, Ms Priya Singh, Mr Abhishek Kumar, Mr Navin Kumar and Ms Pallavi, Advocates.**

**For Respondent:- Dr U.K. Chaudhary, Senior Advocate, Mr Deepak Biswas, Mr Himanshu Vij, Mr Manyusmer Singh, Mr Nishith Mishra, Mr Arjun Minocha and Mr Sourav Vig, Advocates**

**Mr Sanjay Grover, Insolvency Resolution Professional.**

**ORDER**

6.03.2017 – This appeal has been listed at the instance of the Appellant with the consent of the Respondent.

Mr Abhinav Vashisht, Ld. Sr. Counsel for the Appellant submits that the company is ready with Bank draft of the rest of the amount of Rs.8, 82,00,000/- (Rupees eight crore eighty two lakh only) for payment in favour of creditor - M/s. Tomorrow Sales Agency Pvt Ltd. It is also submitted that an approximate amount of Rs. 10,50,000/- (Rupees ten lakh fifty thousand only) has been deducted and deposited as TDS with the Income Tax Department. The amount is being paid as full and final payment.

In terms of the statement as made above the Ld. Sr Counsel handed over the following demand drafts to the Ld. Sr. Counsel for the Respondent:-

<b>Sl.no.</b>	<b>Demand Draft No.</b>	<b>Drawn on</b>	<b>Amount</b>
1	455508 dated 3.3.2017	SBI, Industrial Finance Branch, Ludhiana	Rs.45,70,000/-
2.	455515 dated 3.3.2017	SBI, Industrial Finance Branch, Ludhiana	Rs.3,55,00,000/-
3	455516 dated 3.3.2017	SBI, Industrial Finance Branch, Ludhiana	Rs.39,00,000/-
4.	455517 dated 3.3.2017	SBI, Industrial Finance Branch, Ludhiana	Rs.59,00,000/-
5	455518 dated 3.3.2017	SBI, Industrial Finance Branch, Ludhiana	Rs.1,00,00,000/-
6.	455554 dated 3.3.2017	SBI, Industrial Finance Branch, Ludhiana	Rs.1,35,00,000/-
7.	455555 dated 3.3.2017	SBI, Industrial Finance Branch, Ludhiana	Rs.56,80,000/-
8.	455556 dated 3.3.2017	SBI, Industrial Finance Branch, Ludhiana	Rs.91,50,000/-

Dr. U.K. Choudhary, Ld. Sr. Counsel for the Respondent received the Bank drafts for onward transmission to the Respondent/financial creditor.

Mr Sanjay Grover, interim Insolvency Resolution Professional informed that pursuant to advertisement other creditors may submit claim by 5 P.M on 8<sup>th</sup> March, 2017. He further submits that he has received two more claims from financial/operational creditors, details of which will be supplied by him to the Ld. Sr. Counsel of the Appellant by tomorrow.

Ld. Sr. Counsel for the Appellant submits that the appellant will clear all the dues of the financial creditors/operational creditors, if any and if not disputed.

In the present appeal as the Appellant has paid the full and final amount in favour of the Respondent-financial creditor (M/s. Tomorrow Sales Agency Pvt. Ltd.), this court is not inclined to decide any issue at this stage nor inclined to pass any further order in view of the assurance given by the appellant that it will clear all dues, if any, payable to any financial creditor or operational creditor.

If the Tribunal, on the basis of records and the report as may be submitted by the 'interim Resolution Professional', comes to a conclusion that the Appellant has paid all the dues to financial creditor (s) and operational creditor(s), will close the proceeding and release the appellant company from the rigors of law and allow the appellant company to function independently through its Board of Directors.

It will be also open to the Tribunal to decide as to what amount spent by the Respondent towards advertisement, payment of fees to the interim Resolution professional etc., and whether the dues will be borne by the Appellant or the Respondent. The Appellant is given liberty to mention the matter before the Tribunal with request to take up the matter on an early date, preferably by 9<sup>th</sup> March, 2017. By the next date, the Appellant may clear the dues of rest of the financial creditors and operational creditors, if any.

We have noticed the submission made on behalf of the Appellant that the Appellant has not paid the dues from any of the

bank account of the company which stood freezed under the law, and the aforesaid amount have been paid through other sources.

With the aforesaid observation, the appeal stands disposed of. In the facts and circumstances, there shall be no order as to cost.

(Justice S.J. Mukhopadhaya)  
Chairperson

(Mr Balvinder Singh)  
Member

rc