

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

**Company Appeal (AT) (Ins) No.300 of 2021**

**IN THE MATTER OF:**

**Ashwini Kumar Pandey**

**...Appellant**

**Versus**

**Piyush Moona, Interim Resolution Professional  
R.S. Seven Lifestyle Pvt. Ltd. & Anr.**

**...Respondents**

**For Appellant:**

**Shri Pradeep Rai, Sr. Advocate with Shri Rajiv K. Virmani, Shri Karan Valecha and Ms. Harneet Kaur and Shri Kunal Yadav, Advocates**

**For Respondents:**

**CA Piyush Moona, (IRP – R1)  
Shri Sagar Bansal, Advocate (R-2)**

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

**12.04.2021**      The learned Senior Counsel for the Appellant submits that the Appellant wants to settle with the Operational Creditor. The Advocate Shri Sagar Bansal appears on behalf of Respondent – M/s. Arnav Fashions – Operational Creditor and he submits that the Operational Creditor does not want to enter into settlement talks.

The learned Senior Counsel for the Appellant was asked to argue the Appeal for admission of the same. He submits that the Operational Creditor was in talks with the Corporate Debtor when the matter was pending before the Adjudicating Authority (National Company Law Tribunal, Division Bench, New Delhi) which can be seen from Annexure – A4 (colly) (Page 40). It is stated that the Advocate who was engaged could not connect to the Adjudicating Authority due to technical difficulty and thus, the matter proceeded ex parte

and the Impugned Order came to be passed. The learned Senior Counsel submits that because of this, the parties need to be directed to negotiate and settle the matter.

Appeal shows there has been no representation on behalf of the Corporate Debtor on 19<sup>th</sup> January, 2021 and 1<sup>st</sup> April, 2021. Now the learned Counsel Shri Rajiv Virmani appears on the screen for Appellant and submits that when the matter IB-08(ND)/2020 had come up before the Adjudicating Authority on 19<sup>th</sup> January, 2021, he was not present and he tried to address the Court when the matter came up on 1<sup>st</sup> April, 2021 as Item No.110. He submits that when the Order was passed, there was difficulty of hearing in the Virtual Mode. When Item No.111 was called out which was also against the same Corporate Debtor, he tried to address the Court but he was told that his Vakalatnama is not there. He submits that another Advocate for the Corporate Debtor had appeared.

The Learned Counsel Shri Virmani submits that compassionate view may be taken and opportunity to settle the matter may be given.

Considering the submissions without going into the merits at present stage, one opportunity is given.

Learned Senior Counsel for the Appellant makes a request for stay of the proceedings and the CIRP (Corporate Insolvency Resolution Process). However, we cannot accept such prayer.

List the Appeal as 'fresh case' on 22<sup>nd</sup> April, 2021.

In the meanwhile, if settlement does not take place, the Appellant should be ready to address on admission of Appeal.

As Section 9 has been admitted, the Appellant/Promoters/Directors of the 'Corporate Debtor' are directed to handover the assets and records of the 'Corporate Debtor' to the 'Interim Resolution Professional' immediately (if not yet handed over). The 'Interim Resolution Professional' /RP will ensure that the Company remains a going concern and will take assistance of the (suspended) Board of Directors and the officers/Director/employees. The persons who are working will perform their duties including the paid Directors. The person who is authorised to sign the bank cheques may sign cheques only after authorisation of the 'Interim Resolution Professional' with counter signature of the 'Interim Resolution Professional'/RP at the back side of the cheques. Only in such case, the Bank shall release the payment. The 'Interim Resolution Professional' will place this order before the Banks, in which accounts of 'Corporate Debtor' are maintained. The Bank Account(s) of the 'Corporate Debtor' be allowed to be operated through IRP/RP for day-to-day functioning of the Company such as for payment of Current Bills of the Suppliers, Salaries and Wages of the employees'/workmen, electricity bills etc.

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

[Dr. Alok Srivastava]  
Member (Technical)

*rs/md*