

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
Company Appeal (AT) (Insolvency) Nos. 92 of 2021**

In the matter of:

Krishna Garg & Anr.

....Appellants

Vs.

Pioneer Fabricators Pvt. Ltd.

....Respondent

Present:

Appellants: Mr. Sanchit Garga, Advocate.

Respondent:

ORDER

(Through Virtual Mode)

12.02.2021: Appellants- Financial Creditors whose application for revival of Corporate Insolvency Resolution Process (CIRP) was rejected by the Adjudicating Authority (National Company Law Tribunal), New Delhi Court-III in terms of the impugned order dated 7th December, 2020 on the ground that the CIRP initiated against Respondent- 'M/s. Pioneer Fabricators Pvt. Ltd.'- (Corporate Debtor) vide order dated 12th June, 2019 was recalled by withdrawing the CIRP and that the Appellants- Financial Creditors could not seek revival of CIRP under the provisions of the Insolvency and Bankruptcy Code, 2016 in a matter where the CIRP stands terminated and Moratorium withdrawn.

2. Learned counsel for the Appellant has drawn our attention to order dated 27th June, 2019 passed in CP IB- 1067/(ND)/2018 filed by the Appellants under Section 7 of the 'I&B Code' which brings it to fore that the CIRP was commenced against the Corporate Debtor on 12th June, 2019 with appointment of Interim Resolution Professional (IRP) and slapping of Moratorium. However, a settlement was arrived at between the parties, in

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pursuance whereof the Appellants received some post dated cheques. It appears that it was at the instance of the parties that CIRP was sought to be terminated. The Adjudicating Authority banking upon the judgment of the Hon'ble Apex Court in "**Swiss Ribbons Pvt. Ltd. & Anr. V. Union of India & Ors.- 2019 SCC OnLine SC 73**" allowed the Appellants- Financial Creditors to withdraw the application and terminated the CIRP. It further emerges from the order that neither the settlement terms were filed nor the same were brought on record and incorporated in the order of the Adjudicating Authority with liberty to revive/ restore the CIRP in the event of the Corporate Debtor not adhering to the terms of the settlement or post dated cheques issued to Appellants being dishonored.

3. In view of this position, it cannot be said that the Settlement Terms not incorporated in the order of the Adjudicating Authority assumed the character of the decree of the Court, breach whereof would entitle the Appellants-Financial Creditors to come back and seek restoration/ revival of CIRP.

4. Viewed thus, we find no legal infirmity in the impugned order. The appeal being devoid of any merit, cannot be allowed. The remedy for the Appellants lies somewhere else and the dismissal of this appeal would not preclude the Appellants from seeking such remedy.

The appeal is accordingly dismissed.

[Justice Bansi Lal Bhat]
Acting Chairperson

[Dr. Ashok Kumar Mishra]
Member (Technical)

[Dr. Alok Srivastava]
Member (Technical)

AR/g