

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 628 of 2019

IN THE MATTER OF:

Rajnish Gupta Appellant

Vs

Small Industries Development
Bank of India and Anr. Respondents

Present:

**For Appellant: Mr. Krishnanedu Dutta, Senior Advocate
with Priyadarshi, Mr. Sampurnaa, Mr. Manish
Gupta and Mr. Shivankar, Advocates.**

For Respondents:

ORDER

12.06.2019 Heard learned Senior Counsel for the Appellant.

The grievance of the Appellant is that during the ‘Corporate Insolvency Resolution Process’ (CIRP) the Appellant has made proposal for closure to the Respondent – Small Industries Development Bank of India (SIDBI), which was the only constituent Member of ‘Committee of Creditors’ (CoC). Copy of the proposal is at page 127 (Annexure A-12), which was declined by the Respondent-SIDBI on 9th April, 2019 as at page 129 (Annexure A-13).

According to the learned Counsel, the Adjudicating Authority while passing the impugned order dated 24th April, 2019 observed that it is beyond its jurisdiction to consider the settlement or withdrawal and as such abdicated its jurisdiction which would not be in consonance with the observations of the Hon’ble Supreme Court in the matter of ***Swiss Ribbons Pvt. Ltd. & Anr. vs. Union of India & Ors. – Writ Petition (Civil) No. 99 of 2018***’ decided on ***25th January, 2019***.

It is stated that already liquidation orders have been passed on 31st May, 2019 and now the stage of the matter is that liquidation process is on.

Issue notice to the Respondents. Requisite along with process fee be paid by 17.06.2019.

List the Appeal 'for orders' on **1st July, 2019**.

In the meantime, the Liquidator will not sell or alienate or create third party interest of any moveable or immovable property of the 'Corporate Debtor' without prior approval of this Appellate Tribunal. The Liquidator will also ensure that the company remains going concern and will follow the directions given by this Appellate Tribunal in "**Y. Shivram Prasad Vs. S. Dhanapal & Ors.-Company Appeal (AT) (Insolvency) No. 224 of 2018 etc.**" disposed of on 27th February, 2019.

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

[Kanthi Narahari]
Member (Technical)