

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 417 of 2018

IN THE MATTER OF:

Promila Johnson

...Appellant

Vs

Visoto & Anr.

....Respondents

Present:

For Appellant: Mr. Rohan Thawani, Ms. Charu Ambwani, Ms. Manisha Ambwani and Mr. Iqram Govind Singh, Advocates.

**For Respondents: Mr. Rishabh Kapoor, Advocate for R-1.
Mr. Neeraj Kumar Gupta, Advocate for RP.**

O R D E R

28.09.2018: Affidavit filed by the Appellant in compliance to the order of this Appellate Tribunal dated 31st August, 2018 supported by the copy of settlement agreement dated 17th August, 2018 is taken on record. Learned counsel for Respondent No.1 - Operational Creditor admits that the Respondent No. 1 has entered into a settlement agreement dated 17th August, 2018 with the Appellant – ‘Promila Johnson’ and received a sum of Rs.20 Lakh in full and final settlement of all its claims. Learned counsel appearing on behalf of the Resolution Professional also submits that in view of the development that has taken place after passing of impugned order, the appeal is required to be disposed of.

2. Learned counsel for the Appellant submits that there was only one member of the Committee of Creditors – ‘Canara Bank’. Approval is stated to have been given to the settlement by Committee of Creditors on 25th September, 2018. Learned counsel for the Resolution Professional as also the Operational Creditor admit and accept such position. Since approval is said to have been granted by the single member of the Committee of Creditors, learned counsel for the Respondent No.1 submits that he may be allowed to withdraw his application.

3. In view of the settlement, this Appellate Tribunal allows the Respondent No. 1 – Operational Creditor to withdraw the application under Section 9 which has already been admitted by the Adjudicating Authority in terms of impugned order dated 24th April, 2018. The Adjudicating Authority shall take a decision in regard to the outstanding fee and the expenses of the Resolution Professional and expenses incurred by the Operational Creditor and pass order directing such payment to be made by the Corporate Debtor within 45 days. Order passed by the Adjudicating Authority in regard to moratorium, freezing of accounts and all orders passed consequent thereto are set aside. Application preferred by the Respondent No. 1 under Section 9 stands dismissed as withdrawn. Learned Adjudicating Authority will now close the proceedings. The Corporate Debtor i.e. the Appellant shall stand released from all rigour of law. It shall be allowed to act independently through its Board of Directors. The appeal is allowed with aforesaid observations. In facts and circumstances of the case there shall be no order as to the cost.

[Justice Bansi Lal Bhat]
Member (Judicial)

am/sk