

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal(AT)(Insolvency) No. 55 of 2019

IN THE MATTER OF:

Anand Rai

...Appellant

Vs

Walsons Services Pvt. Ltd. & Anr.

....Respondents

Present:

For Appellant: Mr. Ajay Kr. Jain, Mr. Murari Kumar and Mr. Achint Kumar, Advocates

For Respondents: Ms. Surbhi Kapoor and Ms. Palak Rohmetra, Advocates for Respondent No. 1.

Mr. Videh Vaish and Ms. A.F. Faizi, Advocates for Respondent No. 2

ORDER

28.02.2019 The Appellant- Anand Rai, shareholder of M/s Quickdel Logistics Pvt. Ltd has challenged the order dated 7th January, 2019 whereby the Adjudicating Authority (National Company Law Tribunal), Chandigarh Bench, Chandigarh, admitted the application under Section 9 of Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as 'I&BC') filed by 1st Respondent – Walson Services Private Limited ('Operational Creditor'). Order of Moratorium has been passed.

2. Learned Counsel appearing on behalf of the Appellant submits that the parties have reached settlement on 18th January, 2019 much prior to the constitution of 'Committee of Creditors'. In terms of the settlement, cheques bearing nos. 037322 & 037325, both dated 18th January, 2019 issued by HDFC

Bank have been handed over to the 'Operational Creditor'. The receipt has been enclosed showing payment of Rs. 18,12,643/-.

3. Learned Counsel appearing on behalf of the 'Operational Creditor'- Walson Services Private Limited accepts that the parties have reached settlement and cheques dated 18th January, 2019 have been handed over to the 1st Respondent.

4. Mr. Videh Vaish, learned Counsel for the Resolution Professional accepts that the 'Committee of Creditor' was not constituted as on 18th January, 2019 but was later on constituted on 28th January, 2019.

5. Pursuant to advertisement, several of claims have already been received.

6. In the present case, we find that the parties have reached settlement prior to the constitution of the 'Committee of Creditors'. Following the decision of the Hon'ble Supreme in "***Swiss Ribbons Pvt. Ltd & Anr. Vs. Union of India & Ors***" in Writ Petition(C) No. 99 of 2018 (at paragraph-52), we allow the 'Operational Creditor' to withdraw the application.

7. In the result, the impugned dated 7th January, 2019 is set aside. The application under Section 9 of IB & C filed by 1st Respondent - 'Operation Creditor' is disposed of as withdrawn.

8. In effect, order(s) passed by the Adjudicating Authority appointing any 'Interim Resolution Professional', declaring moratorium, freezing of account, and all other order(s) passed by the Adjudicating Authority pursuant to impugned order and action, taken by the 'Interim Resolution Professional', including the advertisement, if any, published in the newspaper calling for applications all such orders and actions are declared illegal and are set aside. The application preferred by Respondent under Section 9 of the I & B Code, 2016 is dismissed. Learned Adjudicating Authority will now close the proceeding. The 'Corporate

Debtor(Company) is released from all the **rigour** of law and is allowed to function independently through its Board of Directors from immediate effect.

9. The 'Corporate Debtor' will pay rest of the amount of Rs. 7 lakhs towards fee and cost of the Resolution Professional after adjusting the amount if any paid in the meantime within a period of 15 days.

The appeal stands allowed with the aforesaid observations. No cost.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

Akc/Gc