

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI**  
**Company Appeal (AT) (Insolvency) No. 1374 of 2019**

**IN THE MATTER OF:**

**Shiv Kumar Eashwaran**

**...Appellant**

**Vs**

**NTC Logistics India (P) Ltd.**

**...Respondent**

**Present:**

**For Appellant: Mr. Goutham Shivshankar, Advocate.**

**For Respondent: Mr. Tushar Bhushan and Mr. Pavan Bhushan,  
Advocates for R-1.  
Mr. V. Venkadasalam, Advocate for IRP.**

**ORDER**

**10.12.2019:** 'NTC Logistics India (P) Ltd.' (Operational Creditor) moved application under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as 'I&B Code') for initiation of Corporate Insolvency Resolution Process of 'M/s Canadian Crystalline Water India Limited' (Corporate Debtor). The Adjudicating Authority (National Company Law Tribunal), Division Bench-I, Chennai, by impugned order dated 7<sup>th</sup> November, 2019 admitted the application, which is under challenge.

2. On 28<sup>th</sup> November, 2019, when the matter was taken up, learned counsel for the Appellant submitted that the Appellant has settled the claim with the Respondent – Operational Creditor and Committee of Creditors has not been constituted. Notice was issued on Respondents including the Interim Resolution Professional.

3. Mr. Tushar Bhushan, learned counsel appears on behalf of 1<sup>st</sup> Respondent and submits that the Appellant on behalf of the Corporate Debtor has settled the claim and dues as per settlement has been paid prior to constitution of the Committee of Creditors.

4. Mr. V. Venkadasalam, Advocate appears on behalf of the Interim Resolution Professional. He submits that the Interim Resolution Professional has not been paid fee and cost incurred by him. He further states that a sum of Rs.2/- Lakh was paid to the Interim Resolution Professional and another sum of Rs.2.75/- Lakhs is to be paid.

5. We have heard learned counsel for the parties and find that the Committee of Creditors has not been constituted, which is also accepted by learned counsel for the Interim Resolution Professional. Interim Resolution Professional having worked for about 20 days, has already incurred cost against publication of notice – Rs.15,000/- approx., engagement of lawyer – Rs.1/- Lakh approx., travelling expenses – Rs.50,000/- approx., therefore, we assess the total fee and cost of the Interim Resolution Professional at Rs.2.75/- Lakh. However we round it up at Rs.3.00 Lakhs. The Interim Resolution Professional having already paid a sum of Rs.2 Lakhs, the Appellant will pay another sum of Rs.1 Lakh to the Interim Resolution Professional immediately but not later than 15 days.

6. In view of the fact that the parties have settled the matter, in exercise of power conferred under Rule 11 of NCLAT Rules, 2016 and following the decision of Hon'ble Supreme Court in '**Swiss Ribbons Pvt. Ltd. & Anr. Vs. Union of India & Ors.**', **Writ Petition (Civil) No. 99/2018, reported in 2019 SCC OnLine SC 73**, we set aside the order dated 7<sup>th</sup> November, 2019 passed by the Adjudicating Authority and dispose of the application under Section 9 as withdrawn. The Corporate Debtor is released from rigour of Corporate Insolvency Resolution Process. The Interim Resolution Professional will handover all the records and assets of the Corporate Debtor, immediately. If the amount of Rs.1/- Lakh is not paid to the Interim Resolution Professional within 15 days, the present order will stand recalled and this Appellate Tribunal may revive the Corporate Insolvency Resolution Process.

The Appeal is disposed of with aforesaid observations and actions.

[Justice S. J. Mukhopadhaya]  
Chairperson

[Justice Bansi Lal Bhat]  
Member (Judicial)

*am/gc*