

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Ins) No.987 of 2019

IN THE MATTER OF:

Vinod Kumar Jain

...Appellant

Versus

Siddha Domicile Company Pvt. Ltd. & Ors.

...Respondents

For Appellant: Shri Nipun Katyal, Advocate

**For Respondents: Shri Vikrant Pachnanda and Ms. Shruti S.,
Advocates
Shri Nikunj Berlia and Shri Dhruv Surana,
Advocates (Respondent No.1 and 2)
Shri Nitin Kumar Chahar and Shri Varinder Singh,
Advocates (Respondent No.3)**

ORDER

11.11.2019 Counsel for the Appellant and Respondents 1 and 2 state that settlement has not been possible.

Advocate – Shri Vikrant Pachnanda is present. He states that he has instructions from the Committee of Creditors (COC – in short). The Counsel as well as Advocate – Shri Varinder Singh appearing on behalf of Respondent No.3 – Resolution Professional (RP – in short) state that the COC was already constituted on 20th September, 2019. The statement of these Advocates is not controverted by anybody and the RP present himself also confirms the statement. The direction given by this Tribunal on 27.09.2019 that constitution of COC is stayed, till next date, has even otherwise exhausted. We do not extend that Order.

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Hearing of Appeal started. Advocate for Appellant heard in part. He seeks time to argue on question of limitation after going through record. He seeks time till 2.00 P.M. Permitted.

At 2.00 PM – Advocate - Shri Nipun Katyal again appears on behalf of Appellant and he has been heard. This matter had come up earlier today in the first half and after some submissions, the learned Counsel sought time to prepare himself and to make further submission at 2.00 P.M. Accordingly, we had granted time and we have re-assembled at 2.00 P.M.

The learned Counsel had initially doubted that the Application filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 (IBC – in short) as was brought before Adjudicating Authority (National Company Law Tribunal, Kolkata Bench in C.P. (IB) No. 503/KB/2018) was not in limitation. However, now during the course of arguments in the second half of the day, the Counsel fairly accepts that on record Annexure – I (Page – 506) is a letter from the Corporate Debtor dated 20th April, 2015 which acknowledged (at Page 509) the existence of unsecured loan payable to the Financial Creditor No.1 - Siddha Domicile Company Pvt. Ltd. of Rs.18,50,560/-. Section 7 Application was filed on 27.03.2018 and learned Counsel does not press for this point.

The learned Counsel has then submitted that the RP has collated the claims but the Counsel states that the claim filed by the Appellant has not been properly considered. The learned Counsel then states that he requests that the RP may reconsider the claim made by the Appellant.

Advocate – Shri Vikrant Pachnanda states that the COC has already asked the RP to re-examine the claims made by various creditors.

Now the learned Counsel for the Appellant states that he has instructions from the Corporate Debtor – the Appellant to withdraw the Appeal. We permit the Appeal to be withdrawn.

We leave the question of collating of claims to IRP/RP and the actions to be taken by COC to them. If Appellant has any grievances, he may take up the same with the RP/COC and if required, the Adjudicating Authority, as per the procedures.

The Appeal is disposed of as withdrawn with observations made above.

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

[Kanthi Narahari]
Member (Technical)

[V.P. Singh]
Member (Technical)

/rs/md