

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 946 of 2019

IN THE MATTER OF:

Madhu Nambiar

...Appellant

Vs.

M/s. Trivium Systems Inc.

Rep. by their Indian Subsidiary

Trivium India Software Pvt. Ltd. & Ors.

...Respondents

**Present: For Appellant: - Mr. Hemchandra, IRP.
Mr. Rohan Saluja and Mr. Shival Narag, Advocates.**

**For Respondents: - Ms. Anuparna Bordoloi and Mr.
Mahesh Thakur, Advocates.**

O R D E R

18.09.2019— ‘M/s. Trivium Systems Inc.’ (‘Operational Creditor’) filed a C.P. No. 133/15 (T.P. No. 15/17) under Sections 433(e), 434(1) and 439 of the Companies Act, 1956 before the Hon’ble High Court of Karnataka against ‘M/s. Sobha Renaissance Information Technology Private Limited (SRIT)’ for winding-up ‘M/s. Sobha Renaissance Information Technology Private Limited (SRIT)’- (‘Corporate Debtor’).

2. Subsequently, pursuant to Notification issued under Section 434 of the Companies Act, 2013, the case was transferred to the National Company Law Tribunal, Bengaluru Bench. The petition was converted as application under Section 9 of the Insolvency and Bankruptcy Code, 2016

Contd/-.....

("I&B Code" for short) and on filing a Form 5 and being satisfied that there is a debt and default, the said application under Section 9 of the 'I&B Code' was admitted by impugned order dated 16th August, 2019 passed by the Adjudicating Authority (National Company Law Tribunal).

3. While challenging the impugned order, learned counsel for the Appellant submitted that though the challenge has been made on the ground of limitation but the Appellant is ready to settle the matter with the Respondent- ('Operational Creditor')

4. It was informed that the 'Committee of Creditors' has not been constituted and for the said reason, we allowed the parties to reach an amicable settlement.

5. Learned counsel for the Appellant submits that the matter has been settled between the parties and the total claim amount has been paid in terms of Settlement.

6. Learned counsel appearing on behalf of 1st Respondent- ('Operational Creditor') submits that the 'Operational Creditor' has already received the amount.

7. Mr. Hem Chandra ('Resolution Professional') and his counsel accept that the 'Committee of Creditors' has not been constituted and

also submits that he has given the details of fee payable to him and cost incurred by him.

8. Learned counsel appearing on behalf of the Appellant handed over two Demand Drafts one for Rs. 2,24,741/- and one for Rs. 29,500/- respectively and both issued in the name of Mr. Hem Chandra ('Resolution Professional') from Punjab and Sindh Bank.

9. Mr. Hem Chandra ('Resolution Professional') submits that he is satisfied with the amount shown in the Demand Drafts. The Demand Drafts are being handed over to Mr. Hem Chandra ('Resolution Professional') in presence of his counsel in the Court.

10. In the facts and circumstance of the case, in exercise of inherent power being conferred under Rule 11 of the NCLAT Rules, 2016, we set aside the impugned order dated 16th August, 2019 passed by the Adjudicating Authority, Bengaluru Bench.

11. In effect, order (s), passed by the Adjudicating Authority appointing 'Interim Resolution Professional', declaring moratorium, freezing of account, and all other order (s) passed by the Adjudicating Authority pursuant to impugned order and action, if any, taken by the 'Interim Resolution Professional', including the advertisement 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' 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.

12. The appeal is allowed with aforesaid observation. However, in the facts and circumstances of the case, there shall be no order as to cost.

(Justice S.J. Mukhopadhaya)
Chairperson

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

(Kanthi Narahari)
Member(Technical)

Ar/sk