

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency)No.1127 of 2019

IN THE MATTER OF:

Asia Motorworks Holdings Ltd.

.....Appellant

Vs.

Nitin Madhukar Bhate & Anr.

.....Respondents

Present :

**For Appellant: Mr. Abhijit Sinha, Mr. Himanshu, Mr. Arshit Anand,
Mr. R.Patel, Ms. Aashna Agarwal, Advocates**

For Respondents: Mr. Nitin Madhukar Bhate in person

O R D E R

25.10.2019 - Yesterday, when the matter was taken up the following order was passed:-

O R D E R

24.10.2019 *The learned Counsel for the Appellant submits that AMW Motos Limited ('Corporate Debtor') reached settlement with Mr. Nitin Madhukar Bhate ('Operational Creditor') by 21 st October, 2019. The parties were negotiating settlement was also informed to the Adjudicating Authority (National Company Law Tribunal), Ahmedabad Bench, Ahmedabad. However, without waiting for the same, the Adjudicating Authority (National Company Law Tribunal), Ahmedabad Bench, Ahmedabad passed impugned order dated 22 nd*

October, 2019 admitting the application under Section 9 of the Insolvency and Bankruptcy Code, 2016 filed by Respondent ('Operational Creditor') One Mr. Nitin Madhukar Bhate has appeared in person and submits that he has received the amount.

Learned Counsel for the Appellant submits that the 'Interim Resolution Professional' has not yet taken charge.

In the facts and circumstances, we allow Mr. Nitin Madhukar Bhate to file an affidavit by tomorrow, i.e., 25.10.2019. The Appellant will also inform the 'Interim

Resolution Professional' for his appearance, who may or may not agree to bear his

cost.

Post the case 'for orders' on 25th October, 2019 at 12:30 P.M. before the 1st Bench.

Until further orders, operation of impugned order dated 22nd October, 2019 shall remain stayed.

An affidavit has been filed by Mr. Nitin Madhukar Bhate who has appeared in person wherein the following statement has been made:-

2. *I state that I had agreed to settle the outstanding debt with the Corporate Debtor i.e. AMW Motors Limited for an amount of Rs. 30,07,188/-. The said amount has been duly received by me.*

3. *I state that I having received the entire amount had instructed my Advocates to withdraw the proceedings under Section 9, filed before the Adjudicating Authority, Ahmedabad Bench being Company Petition (I.B.) No. 103 of 2018.*

4. *I state that on my instructions, my Advocates had requested the Adjudicating Authority, Ahmedabad Bench to permit withdrawal of the aforementioned Petition."*

In view of the stand taken by the Respondent in exercise of power conferred under Rule 11 of 'NCLAT' Rules, 2016 we set aside the impugned order dated 22nd October, 2019 passed by the Adjudicating Authority ('National Company Law Tribunal') Ahmedabad Bench. The application Under Section 9 of the 'I&B' Code filed by Respondent before the Adjudicating Authority has been disposed of as withdrawn. The Adjudicating Authority will close the proceedings. The 'Interim Resolution Professional' being appointed and the cost of Rs. 50,000/- to be paid by the Appellant to the 'Interim Resolution Professional' within two weeks.

The 'Corporate Debtor' is released from all rigour of the 'Corporate Insolvency Resolution Process'. The Appeal is allowed. No Costs.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice Venugopal M.]
Member (Judicial)

[Justice Jarat Kumar Jain]
Member (Judicial)

ss/sk