

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

**I.A. No.1907 of 2019
Company Appeal (AT) Insolvency No. 614 of 2019**

IN THE MATTER OF:

Hemant Surana

...Appellant

Vs

Viswanatha Balasubramanian & Anr.

....Respondents

Present:

**For Appellant: Mr. Paritosh Budhiraja and Ms. Surabhi Maheshwari,
Advocates.**

For Respondents: Ms. Sudha Sachdeva, Advocate for R-1.

ORDER

17.06.2019: Learned counsel for the Appellant has filed an Interlocutory Application for preponement of Company Appeal (AT) (Insolvency) No. 614 of 2019 which was posted 'for orders' on 2nd July, 2019 at 2:00 PM. Preponement is sought on the ground that the Appellant has arrived at a settlement with the Respondent – Financial Creditor. In the given circumstances, the aforesaid appeal is preponed and taken up today itself. I. A. No. 1907 of 2019 stands disposed of.

2. Copy of the Settlement Agreement has been filed, perusal whereof brings it to fore that the Corporate Debtor has arrived at an amicable settlement with the Respondent – Financial Creditor in regard to amount claimed, subsequent to initiation of Corporate Insolvency Resolution Process at the instance of Respondent – Financial Creditor but before constitution of Committee of

Creditors. It appears that in terms of interim order dated 31st May, 2019 passed in the appeal, the Interim Resolution Professional had been directed not to constitute Committee of Creditors. It appears in terms of the Settlement Agreement dated 10th June, 2019, Respondent – Financial Creditor – ‘Viswanatha Balasubramanian’ has reached an agreement qua settlement of his claim with the Corporate Debtor. Agreed ‘Terms of Settlement’ are recorded in the aforesaid Settlement Agreement and parties have agreed to adhere to the same in letter and spirit. It is admitted by learned counsel for the Respondent - Financial Creditor that the Terms of Settlement are consionable and satisfy the claim of the Financial Creditor. Thus, the Settlement Agreement is a full and final settlement of claim of the Financial Creditor. The Settlement Agreement is accordingly taken on record. Nothing survives for consideration in the instant appeal. In view of the same, the impugned order of admission dated 24th May, 2019 passed by learned Adjudicating Authority (National Company Law Tribunal), Principal Bench, New Delhi is set aside.

4. In the result, order(s) passed by the Adjudicating Authority appointing ‘Resolution Professional’, declaring moratorium, freezing of account, and all other order(s) passed pursuant to impugned order and action taken by the ‘Resolution Professional’, including the advertisement published in the newspaper calling for applications and actions are declared illegal and are

set aside. The 'Corporate Debtor' is released from the rigour of law and is allowed to function independently through its Board of Directors from immediate effect. However, the Adjudicating Authority shall be at liberty to pass appropriate orders in regard to the fee and expenditure admissible to the Interim Resolution Professional for the period he has worked and expenditure he has incurred in connection with the Resolution Process. Same shall be borne by the Corporate Debtor.

5. The appeal stands disposed of with aforesaid observations. However, there shall be no order as to costs.

(Justice Bansilal Bhat)
Member (Judicial)

am/md