

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

**I.A. No. 1969 of 2019
Company Appeal (AT) (Insolvency) No. 647 of 2019**

IN THE MATTER OF:

Sandeep Malik

...Appellant

Vs

Watchdata Technologies (India) Pvt. Ltd. & Anr.

...Respondents

Present:

**For Appellant: Mr. Suren Uppal, Mr. Vikas Bhardwaj and
Mr. Amit Bhardwaj, Advocates.**

**For Respondents: Mr. S. Narendra Kumar, Advocate for R-1.
Mr. Vinod Chaurasia, Advocate for IRP.
Mr. Pankaj Arora, CA, IRP in person.**

O R D E R

25.06.2019: It is submitted that the parties have arrived at an amicable settlement and the 'Terms of Settlement' have been reduced to writing. I.A. No. 1969 of 2019 has been filed enclosing the Terms of Settlement Deed executed on 23rd June, 2019 inter-se Mr. Sandeep Malik, Director of 'Rosmaerta Technologies Ltd.' (Corporate Debtor) and the Operational Creditor – 'Watchdata Technologies (India) Pvt. Ltd.', in terms whereof the Appellant has agreed to pay a sum of Rs.92 Lakhs to the Operational Creditor towards full and final discharge of the claim made by the Operational Creditor.

2. In terms of the settlement, learned counsel for the Appellant handed over a Demand Draft No.509423 dated 21.06.2019 issued by ICICI Bank (02) M G Road, Bangalore Branch for Rs.92,00,000/- (Rupees Ninety Two Lakh Only)

in name of 'Watchdata Technologies (India) Pvt. Ltd.' to learned counsel for 1st Respondent in open court for onward transfer to the Operational Creditor (1st Respondent).

3. Shri Vinod Chaurasia, learned counsel representing Mr. Pankaj Arora, Interim Resolution Professional admits that the IRP has received the fee in entirety alongwith expenditure incurred during the resolution process and submits that nothing remains outstanding.

4. Learned counsel for 1st Respondent – Operational Creditor admits that the claim of the Operational Creditor has been satisfied in full. Thus the claim in respect whereof default was alleged and Corporate Insolvency Resolution Process was initiated in terms of impugned order dated 14th June, 2019 stands satisfied. Learned counsel for Interim Resolution Professional submits that the Interim Resolution Professional after his appointment was just at the threshold stage of commencing the process and the Committee of Creditors was yet to be constituted. Thus, in terms of observations of Hon'ble Supreme Court at para 52 in its decision in '*Swiss Ribbons Pvt. Ltd. & Anr. Vs. Union of India & Ors.*', *Writ Petition (Civil) No. 99/2018, reported in 2019 SCC OnLine SC 73*, there is no legal impediment in entertaining the settlement worked out between the parties, which appears to be conscionable and the Settlement Deed is taken on record.

In view of the resolution of conflict inter-se the parties by satisfaction of the claim of the Operational Creditor by the Appellant, the order of admission for initiation of the Corporate Insolvency Resolution Process cannot be supported and same is set aside. Learned Adjudicating Authority (National Company Law Tribunal), New Delhi Bench shall now close the proceedings.

5. In the result, order(s) passed by the Adjudicating Authority appointing 'Interim Resolution Professional', declaring moratorium, freezing of account, and all other order(s) passed pursuant to impugned order and action taken by the 'Interim Resolution Professional', including the advertisement published in the newspaper calling for applications, if any, and actions pursuant thereto are declared illegal and are set aside. The Interim Resolution Professional is discharged of his obligations. The 'Corporate Debtor' is released from the rigour of law and is allowed to function independently through its Board of Directors from immediate effect.

6. The appeal stands disposed of with aforesaid observations.

[Justice Bansi Lal Bhat]
Member (Judicial)

am/gc