

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 523 of 2018**

**IN THE MATTER OF:**

**Vineet Wadhwa**

**...Appellant**

**Vs**

**Technology Development Board & Ors.**

**....Respondents**

**Present:**

**For Appellant: Mr. Alok Shukla, Advocate.**

**For Respondents:**

**ORDER**

**13.09.2018:** Having heard learned counsel for the Appellant and being satisfied of the grounds shown delay of 3 days in preferring the appeal is condoned. I.A. No. 1350 of 2018 stands disposed of.

2. This appeal has been preferred by Mr. Vineet Wadhwa, shareholder of M/s Logic Eastern (India) Private Limited, Noida (Corporate Debtor) against order dated 18<sup>th</sup> July, 2018 whereby the application under Section 7 of the I&B Code preferred by the Respondent – ‘Technology Development Board’ has been admitted, order of moratorium has been passed and Interim Resolution Professional has been appointed.

3. Learned counsel appearing on behalf of the Appellant submitted that though there was a debt payable to the Respondent – ‘Financial Creditor’ but there was no default as the date of payment was postponed to subsequent date. Reliance was placed on the letter issued by the Respondent dated 5<sup>th</sup> February, 2016 which relates to proposed settlement dated 22.01.2016 which was submitted before the Dispute Resolution Committee on the request of the Corporate Debtor and reads as follows:

ANNEXURE-A-10 145



प्रौद्योगिकी विकास बोर्ड  
(विज्ञान और प्रौद्योगिकी विभाग के अधीन सांविधिक निकाय)  
भारत सरकार

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TECHNOLOGY DEVELOPMENT BOARD  
(A Statutory Body Under Department of Science and Technology)  
Government of India

File No. TDB/DRC/2015-16

5<sup>th</sup> February, 2016

To

M/s Logic Eastern India Pvt. Ltd  
C-56/39, 5<sup>th</sup> Floor,  
Sector-62, Noida

Subject: Settlement proposal dated 22.01.2016 submitted to Dispute Resolution Committee by M/s. Logic Eastern India Pvt. Ltd., Noida

Dear Vineet,

This is with reference to your proposal dated 22.01.2016 in response to the Dispute Resolution Committee meeting dated 09.01.2016.

The said proposal was considered by the Dispute Resolution Committee (DRC) on 30.01.2016 in your presence. The following recommendations are made by the DRC:-

- (d) Payment of the entire Principal Amount.
- (e) Company shall pay Rs. 50.00 lakh before 31<sup>st</sup> March, 2016.
- (f) Company shall pay Rs. 50.00 lakh per year in quarterly instalments till the repayment of the entire principal amount.
- (g) Company shall provide monthly financial statement to TDB for consideration till the tendency of the loan.

You are requested to deposit Rs. 50.00 lakh before 31<sup>st</sup> March, 2016.

You are further requested to coordinate with our legal department for execution of necessary documents/agreements in this regard.

Thanking you,

Yours sincerely,

(Dr. Bindu Dey)  
Secretary TDB

खण्ड-क, यू-तल विश्वकर्मा भवन, शाहीद जीत सिंह मार्ग, नई दिल्ली - 110016  
Wing-A, Ground Floor, Vishwakarma Bhawan, Shaheed Jeet Singh Marg, New Delhi- 110016  
Phone (Direct) : +91-11-26537349 / 26540100 Fax : +91-11-26531862 Website : www.tdb.gov.in

T. C.

4. We enquired from the learned counsel for the Appellant as to whether any agreement was signed in terms of the proposal dated 5<sup>th</sup> February, 2016, in reply to which it is submitted that no agreement has been reached because of laches on part of the Respondent – Financial Creditor, as it intimated that the Corporate Debtor has failed to pay the installment, though the Corporate Debtor paid certain installments. Reliance is placed on the Section 62 of ‘The Indian Contract Act, 1872’ which relates to ‘effect of novation, rescission, and alteration of contract’.

5. We have heard learned counsel for the Appellant and perused the records. The Adjudicating Authority has taken into consideration the fact that the Application under Section 7 has been filed by the Financial Creditor in Form-1 is complete, which is also not disputed by the Appellant. It is true that on the request of the Corporate Debtor a proposed settlement was forwarded to the Respondent, which was placed before the ‘Dispute Resolution Committee’ on 30<sup>th</sup> January, 2016, which on consideration made recommendations as reflected in the letter dated 5<sup>th</sup> February, 2016 and quoted above. There is nothing on record to suggest that the Corporate Debtor thereafter paid Rs.50 lakh per year in quarterly instalments till the repayment of the entire principal amount. Even in terms of the proposed terms of settlement, no installment having made, no fresh agreement was reached. The Corporate Debtor also not moved before any court of competent jurisdiction or authority raising such grievance

6. Learned counsel for the Appellant submitted that there is an arbitration proceeding pending, but such ground cannot be accepted to set aside the order.

7. Admittedly, there is a debt and default having committed by Corporate Debtor no interference is called for. In absence of any merit, the appeal is dismissed. No costs.

[Justice S. J. Mukhopadhaya]  
Chairperson

[Balvinder Singh]  
Member (Technical)

*am/uk*