

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI
Company Appeal (AT) (Insolvency) No. 1054 of 2019

IN THE MATTER OF:

Ashok Kumar M. Lulla

...Appellant

Vs

Suryaa Chamball Power Ltd. & Ors.

....Respondents

Present:

For Appellant: Mr. Rajiv Sharma, Mr. Uddyam Mukherjee and Ms. Madhurika Ray, Advocates.

For Respondents: Mr. Abhishek Anand and Ms. Honey Satpal, Advocates for R-1.

Mr. Archit Vohra, Advocate for IRP.

ORDER

19.11.2019: 'Suryaa Chamball Power Limited' (Operational Creditor) filed petition under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as 'I&B Code') for initiation of Corporate Insolvency Resolution Process against 'Prakriti Power Private Limited' (Corporate Debtor). The Adjudicating Authority (National Company Law Tribunal), Jaipur Bench by impugned order dated 25th September, 2019 admitted the application.

2. On 16th October, 2019, when the matter was taken up, learned counsel for the Appellant submits that prior to admission of the appeal, a settlement was reached between the parties. This was also accepted by the counsel for the Respondent. However, we find that Committee of Creditors was constituted.

3. Mr. Archit Vohra, Advocate appearing on behalf of the Interim Resolution Professional – Mr. Jai Narayan Kahndelwal submitted that only one claim was received that is of the Respondent – ‘Suryaa Chamball Power Limited’, with whom Appellant has reached ‘Terms of Settlement’.

4. Learned counsel for the Appellant handed over a Demand Draft No.007000 dated 15th November, 2019 issued by Axis Bank Ltd., Connaught Place, Delhi in the name of ‘Suryaa Chamball Power Limited’ (Operational Creditor) for Rs.16,93,542/- (Rupees Sixteen Lakh Ninety Three Thousand Five Hundred and Forty Two Only) in terms of the Settlement to Mr. Abhishek Anand, learned counsel for Respondent No. 1 for onwards transmission to the Operational Creditor.

5. In view of the aforesaid development and as there is no other claim received by the Interim Resolution Professional, in exercise of inherent power conferred under Rule 11 of NCLAT Rules, 2016, we set aside the impugned order dated 25th September, 2019 and allow the Operational Creditor to withdraw the application under Section 9. The said application under Section 9 stands disposed of as withdrawn. The Adjudicating Authority will close the proceeding.

6. In so far as fees and cost of Interim Resolution Professional is concerned, a sum of Rs.2 Lakhs (Rupees Two Lakhs Only) as full and final payment has been given to the Interim Resolution Professional and learned counsel for the Interim Resolution Professional submits that Mr. Jai Narayan Kahndelwal has no other claim.

7. In the result, 'Prakriti Power Private Limited' (Corporate Debtor) is released from rigour of Corporate Insolvency Resolution Process and will function through its Board of Directors. The Interim Resolution Professional will hand over assets and records of the Corporate Debtor, immediately. The appeal is allowed with aforesaid observations and directions.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

[Justice Venugopal M.]
Member (Judicial)

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