

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Ins.) No. 725 of 2018

IN THE MATTER OF:

Sunshine Caterers Pvt. Ltd.

...Appellant

Vs.

Redreef Finance & Investment Pvt. Ltd.

...Respondent

Present:

For Appellant: Mr. Harsh Koekar, Advocate

For Respondent: Mr. Rakesh Kumar, Mr. Sunil Tripathi and Mr. Rajendra Behiwal, Advocates

ORDER

28.02.2019: Learned counsel for the parties submits that in view of the application made under Section 12A by post before the Committee of Creditors, the Respondent Financial Creditor intends to file application for withdrawal of application under Section 7. The matter will be taken by the Committee of Creditors and thereafter by the Adjudicating Authority in future.

Learned counsel appearing on behalf of the Respondent Financial Creditor submits that the appellant has been asked to withdraw the appeal and enable the Committee of Creditors to consider the application under Section 12A and thereby the Adjudicating Authority to consider the application for withdrawal.

In the circumstances, we allow the appellant to withdraw the appeal with liberty to file interlocutory application to reopen the appeal, in case application under Section 12A is not approved by 90% of Committee of Creditors and the withdrawal of application under Section 7 is not allowed by the Adjudicating Authority.

We are of the opinion that if the Committee of Creditors approved the application under Section 12A with majority voting share of 90%, the Adjudicating Authority cannot further look into the matter and is required to allow the applicant to withdraw the application, if it is filed. The appeal stands disposed of with aforesaid observations and liberty.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

sa/sk