

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 700 of 2020

IN THE MATTER OF:

Vibhanshu Agarwal

...Appellant

Versus

Pankaj Mohan Gupta & Ors.

...Respondents

Present:

For Appellant: Mr. Parminder Singh, Ms. Aarushi Tikku and Mr. Ankit Banati, Advocates.

**For Respondents: Mr. Pankaj Mohan Gupta Respondent No.1 in person.
Ms. Nikshubha, Advocate with Mr. Sanjay Garg, IRP**

ORDER
(Through Virtual Mode)

17.08.2020: This appeal has been preferred by the Appellant, who is a Director of the Suspended Board of Directors of Respondent No.2 (Corporate Debtor) against the impugned order dated 29th July, 2020 passed by the Adjudicating Authority (National Company Law Tribunal), New Delhi Bench (Court No. IV) in Company Petition No. IB-3502/ND/2019 filed under Section 9 of the I&B Code by Respondent No.1 (Operational Creditor). Shri Parminder Singh, Advocate representing Appellant submits that the Corporate Debtor has settled the claim of Respondent No. 1 i.e. 'Operational Creditor' in terms of

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Settlement Agreement and an application has been filed by the Appellant before the Adjudicating Authority on 13th August, 2020 for exiting from the Corporate Insolvency Resolution Process on the basis of Settlement Agreement.

2. When we put a query to Ms. Nikshubha Shetty, Advocate representing Respondent No. 2 and 3, she stated that the Committee of Creditors is yet to be constituted and no claim has so far been received by the Interim Resolution Professional.

3. In the given circumstances, there is no legal impediment in allowing the Corporate Debtor to seek an exit from the Corporate Insolvency Resolution Process at the 'pre constitution of Committee of Creditors stage' when no claim other than claim of the Respondent-Operational Creditor is there and such claim of the Operational Creditor has reportedly been taken care of in terms of the Settlement Agreement. Since an application in this regard is already pending before the Adjudicating Authority, this appeal is disposed of with a request to the Adjudicating Authority to dispose of the application filed under Rule 11 of the NCLT Rules, 2016 for taking on record the Consent Terms/Settlement Agreement and annulling the order of admission and all ancillary and consequential orders passed by the Adjudicating Authority as a sequel to the

order of admission of application under Section 9 of the I&B Code. The Adjudicating Authority is expected to take up the matter expeditiously, preferably within three days from the date of communication of this order and close the proceedings on the basis of Consent Terms/Settlement Agreement. It shall also fix the fee of the Interim Resolution Professional for the period he has worked together with the costs incurred during the Corporate Insolvency Resolution Process. The Appeal is accordingly disposed of.

A copy of this order be sent to the Adjudicating Authority (National Company Law Tribunal), New Delhi Bench (Court No. IV) forthwith.

**[Justice Bansi Lal Bhat]
Acting Chairperson**

**[Justice Jarat Kumar Jain]
Member (Judicial)**

**[Shreesha Merla]
Member (Technical)**

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