

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

**Company Appeal (AT) (Insolvency)No. 906 of 2019**

**IN THE MATTER OF:**

**Mr. Rakesh Wadhawan**

**.....Appellant**

**Vs.**

**Bank of India & Anr.**

**.....Respondents**

**Present :**

**For Appellant: Dr. U.K. Chaudhary, Sr. Advocate with Mr. Subir Kumar, Advocates**

**For Respondents: Mr. Subrata Roy, ADG, BOI**

**O R D E R**

**03.09.2019** - The 'Bank of India' filed an application u/s 7 of the Insolvency & Bankruptcy Code, 2016 ('I&B' Code, for short) against 'Housing Development & Infrastructure Ltd.' ('Corporate Debtor'). The Adjudicating Authority by impugned order dated 20<sup>th</sup> August, 2019 having admitted the application, the Appellant / Shareholder of the 'Corporate Debtor' has challenged the same.

Learned counsel appearing on behalf of the Appellant referred to a letter dated 31<sup>st</sup> August, 2019 issued by Treasury Branch of 'Bank of India' to suggest that the 'Bank of India' has already received the sum of Rs. 96.50 crores approx. and for further consideration of 'One Time Settlement' is agreeable for keeping 'Corporate Insolvency Resolution Process' in

abeyance for two weeks. A copy of the letter reads as follows:-



Ref No.: TRY:INVT:SKR:2019-20:219

Date: 31.08.2019

Mr Sarang R Wadhawan  
Promoter - Housing Development and Infrastructure Ltd  
Wadhawan House,  
Plot no. 32/A,  
Union Park No. -5,  
Bandra West,  
Mumbai -400050.

**Sub: Our investment in Non-Convertible Debentures of HDIL  
Our Application before Hon'ble NCLT II Mumbai  
Your Request for One Time Settlement**

We acknowledge receipt of your letter no. NIL dated 31.08.2019 alongwith the following pay-orders in original.

Sr no.	Pay order no.	Date	Amount (Rs)	Drawee Bank
1	384465	26.08.2019	46,50,00,000.00	PMC Bank
2	384477	30.08.2019	50,00,00,000.00	PMC Bank

2. Pending a decision on the Company's OTS proposal by the Competent Authority of our Bank, we give our concurrence for keeping the CIRP proceedings in abeyance for a period of 2 weeks.

Thanking You,

Yours faithfully,



(S.K. Roy)

Assistant General Manager

Star House, C-5, G-Block, Bandra-Kurla Complex, Bandra (East), Mumbai 400051.  
Tel- 26500889, 26501131, Fax No. 26501168, 26528958,  
E-mail – [treasurv.invt@bankofindia.co.in](mailto:treasurv.invt@bankofindia.co.in)

Mr. Subrata Roy, Assistant General Manager of the 'Bank of India' is present in person. He accepts notice on behalf of the 1<sup>st</sup> Respondent and also admits that the letter dated 31<sup>st</sup> August, 2019 had been issued by him.

In the circumstances, we direct the Appellant to hand over a copy of the paper-book to Mr. Subrata Roy, Assistant General Manager, who may engage a Counsel and may file reply-affidavit within 10 days. Rejoinder, if any, may be filed within one week thereof.

In the meantime, let notice be issued on rest of the Respondents by speed post. Requisite along with process fee be filed by 4<sup>th</sup> September, 2019. If the appellant provides the e-mail address of the rest of the respondents, let notice be also issued through e-mail.

Post the case for 'Orders' on **26<sup>th</sup> September, 2019**.

With a view to give one opportunity to the Appellant to settle the claim of 'Bank of India', we direct the 'Interim Resolution Professional' not to constitute 'Committee of Creditor' till next date, if not yet constituted.

In the meantime, the Interim Resolution Professional (IRP) will ensure that the company remains going concern and the manufacturing and production of the company do not suffer; payment of wages to the employees/workmen and supplied during Resolution Process shall be made on time. The Insolvency Resolution Professional will take aid of (suspended) Board of Directors, paid Directors, officers and the employees of the Corporate Debtor. The Banks having account of the

corporate debtor will also cooperate with the Resolution Professional to ensure compliance of this order.

[Justice S. J. Mukhopadhaya]  
Chairperson

[Justice A. I. S. Cheema]  
Member (Judicial)

[Kanthi Narahari]  
Member (Technical)

ss/gc