

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 661 of 2020

IN THE MATTER OF:

Rajratan Babulal Agarwal

...Appellant

Versus

Agarwal Coal Corporation India Pvt. Ltd. & Ors.

...Respondents

Present:

For Appellant: Mr. Anish Agarwal, Mr. Tejas Agarwal, Ms. Vanshia Gupta and Mr. Mayur Khandeparkar, Advocates.

**For Respondents: Mr. V. N. Dubey, Advocate for R-1.
Mr. Kunal Chheda, Advocate for IRP.**

ORDER
(Through Virtual Mode)

04.08.2020: Learned counsel for the Appellant submits that the claim of the Respondent – ‘Operational Creditor’ has been satisfied. However, it is brought to our notice by Shri Kunal Chheda, Advocate representing the Interim Resolution Professional that the Interim Resolution Professional has received three more claims from the Financial Creditors in addition to the claim of the Respondent- ‘Operational Creditor’. He also informed that the Committee of Creditors has been constituted. In view of the same, Settlement as claimed by the Appellant cannot take effect unless it is all encompassing. Moreover, procedure laid down under Section 12A of the I&B Code has to be followed for withdrawal of the application by the Operational Creditor at whose instance the Corporate Insolvency Resolution Process has been initiated.

Faced with this situation, learned counsel for the Appellant submits that he wants to continue with this appeal and contest on merit. The impugned order of admission of application under Section 9 of the I&B Code is assailed on the ground that there is no debt payable in law.

Issue notice upon Respondents. Mr. V. N. Dubey, Advocate waived and accepted notice on behalf of Respondent No.1. Mr. Kunal Chheda, Advocate representing Interim Resolution Professional waived and accepted notice on behalf of Respondent No. 2. Respondent No. 3 being the Interim Resolution Professional arrayed as Party Respondent by name, being already incharge of the affairs of Respondent No. 2 and having accepted notice on its behalf is struck out from the array of Respondents. Service of notice is complete. No further notice needs to be issued.

Respondents may file their reply affidavits within two weeks. Rejoinder, if any may be filed by the Appellant within one week thereof.

List the appeal 'for admission (after notice)' on **11th September, 2020**.

Meanwhile, the 'Interim Resolution Professional' will ensure that the company remains going concern and will take assistance of the (suspended) Board

of Directors. The Appellant/ Corporate Debtor shall provide all assistance as required and cooperate with the Interim Resolution Professional and the persons who are working will perform their duties including the paid Directors. The person who is authorised to sign the bank cheques may sign cheques only after authorisation of the 'Interim Resolution Professional' with counter signature of the 'Interim Resolution Professional' at the back side of the cheques. In such case, the Bank shall release the payment. The Interim Resolution Professional will place this order before the Banks, in which accounts of Corporate Debtor are maintained. The Bank Account(s) of the 'Corporate Debtor' be allowed to be operated for day-to-day functioning of the company such as for payment of Current Bills of the Suppliers, Salaries and Wages of the employees'/workmen, electricity bills etc. I.A. Nos. 1775/20, 1776/20 and 1777/20 are accordingly disposed of.

[Justice Bansi Lal Bhat]
Acting Chairperson

[V. P. Singh]
Member (Technical)

[Dr. Alok Srivastava]
Member (Technical)

am/gc

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