

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

**Company Appeal (AT) (Insolvency) No. 1002 of 2019**

**IN THE MATTER OF:**

**Rajiv Dhamija**

**...Appellant**

**Versus**

**Alliance Broadband Services  
Pvt. Ltd. & Another**

**...Respondents**

**Present:**

**For Appellant :**

**Ms. Nidhi Mohan Parashar and Ms. P. Sharma,  
Advocates**

**For Respondents :**

**Mr. Ratnako Banerji, Senior Advocate with  
Mr. Abhijeet Sinha, Mr. Arijit Mazumdar, Mr. Saikat  
Sarkar, Ms. Akansha Kaushik, Mr. Kanishk and Mr.  
Devendra Raut, Advocates for 1<sup>st</sup> Respondent**

**Ms. Garima Bajaj, Advocate for ‘Interim Resolution  
Professional’**

**Mr. Kunal Tandon and Ms. Niti Jain, Advocates for  
Intervenors – Star India**

**Ms. Rashmi Singhania, Advocate for Intervenors**

**Mr. Prodyut Banerjee and Mr. Sujan Kumar Ghosh,  
Advocates for ‘Operational Creditor’**

**Mr. Vinay Shukla, Advocate for ‘Mybox Technology’**

**O R D E R**

**22.10.2019** The ‘Alliance Broadband Services Private Limited’ (Financial Creditor) preferred an application under Section 7 of the ‘Insolvency and Bankruptcy Code, 2016’ (for short, ‘the I&B Code’) for initiation of the ‘Corporate Insolvency Resolution Process’ against ‘Manthan Broadband Services Private Limited’ (Corporate Debtor). The Adjudicating Authority (National Company Law Tribunal), Kolkata Bench, Kolkata by impugned order dated 18<sup>th</sup> September,

2019 having admitted the application, the present appeal has been preferred by the Director/Shareholder of 'Corporate Debtor'.

Earlier, when the matter was taken up, Mr. Arun Kathpalia, learned Senior Counsel appeared and submitted that the Appellant is ready to pay the total claimed amount as claimed by the Respondent (Financial Creditor). The learned counsel for 1<sup>st</sup> Respondent having appeared and agreed for negotiation, while we issue notice to the 2<sup>nd</sup> Respondent, stayed the constitution of 'Committee of Creditors' to enable the parties to settle the matter.

Today, it is informed that the Appellant agrees to pay the total amount as shown in Form 1. Mr. Ratnako Banerji, learned senior counsel also submits that the 1<sup>st</sup> Respondent has agreed to reach for 'Terms of Settlement'.

At this stage, some of the advocates pray for intervention. Mr. Kunal Tandon, Advocate submits that he intends to appear on behalf of 'Star India Pvt. Ltd.' (Operational Creditor), who had filed the application under Section 9 of the 'I&B Code' but it was not entertained as order of initiation of 'Corporate Insolvency Resolution Process' had already been passed. The said 'Operational Creditor' had been asked to file the claim before the 'Interim Resolution Professional'.

Mr. Vinay Shukla, learned counsel intends to appear on behalf of 'Mybox Technologies' and 'Altus Company' (Operational Creditor) and submits that he has also filed a claim before the 'Interim Resolution Professional'. Mr. Prodyut Banerjee, learned counsel also intends to appear on behalf of 'Operational Creditor'. This apart, we find that there are other counsel also who intend to appear. Ms. Rashmi Singhania, Advocate appears on behalf of the landlord of the premises on which the 'Corporate Debtor' is functioning.

Ms. Garima Bajaj, learned counsel appears on behalf of the 'Interim Resolution Professional' submits that she has received claims amounting to Rs.118 Crores approximately.

In the facts and circumstances, we are not inclined to allow the Appellant to settle the matter with only one of the 'Financial Creditor' – 'Alliance Broadband Services Private Limited' but give liberty to the Appellant to move before the 'Resolution Professional' by filing an application for settlement under Section 12A of the 'I&B Code'. The 'Interim Resolution Professional' will constitute 'Committee of Creditors' and if the Appellant files the application under Section 12A, place the same before the 'Committee of Creditors' to consider accepting the same with 90% voting share and thereby enable the 'Alliance Broadband Services Private Limited' to withdraw the application. The 'Committee of Creditors' will consider the same before considering any 'resolution plan'.

It is expected that all this procedure will be completed within 30 days. If the proposal under Section 12A is not with 90% voting share, the 'Committee of Creditors' will take up the 'resolution plans' for consideration.

The appeal stands disposed of with aforesaid liberty / observations and directions.

[Justice S.J. Mukhopadhaya]  
Chairperson

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

[ Kanthi Narahari ]  
Member (Technical)

/ns/gc