

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

**Company Appeal (AT) (Insolvency)No. 57 of 2019**

**IN THE MATTER OF:**

**Ravindran Sivamani & Anr.**

**.....Appellants**

**Vs.**

**M/s Real Soya Enterprises & Ors.**

**.....Respondents**

**Present :**

**For Appellant: Ms. Shreya Mathur, Mr. Pankaj Aggarwal,  
Advocates**

**For Respondents: Mr. Saurabh Agrawal, Advocate**

**O R D E R**

**06.08.2019** - This appeal was preferred by the Appellant against the order dated 19<sup>th</sup> December, 2018.

2. When the matter was taken up on 16<sup>th</sup> January, 2019, learned counsel for the Appellant submitted that no notice under Section 8(1) of the Insolvency & Bankruptcy Code, 2016 ('I&B' Code, for short) was served on the 'Corporate Debtor' nor any notice was issued by the Adjudicating Authority.

3. Subsequently, when we wanted to know as to what ground the Appellant would have taken, if notice have been served on 'Corporate Debtor', it was informed that the Appellant would have settled the matter with the Respondent.

...contd.

4. After four months, on 17<sup>th</sup> May, 2019, learned counsel for the Appellant submitted that the parties have settled the matter and sought a week's time to file affidavit enclosing the terms of settlement.

5. Similar prayer was made on 30<sup>th</sup> May, 2019 and the matter was adjourned. On 3<sup>rd</sup> July, 2019, the Appellant submitted again that the matter has been settled but simultaneously submitted that negotiation is going on which shows that no settlement was reached and all the time adjournment was taken by the Appellant on the ground that the settlement has been reached and finally today it is informed that the parties have not reached the settlement that means wrong statement was made and adjournment was sought and kept the matter pending for more than six months.

6. Apart from the aforesaid fact that the Appellant all the time misleading this Appellate Tribunal and on merit also no case was made out, we intend to hear the case of merit, however, again prayer has been made to adjourn the matter.

7. Learned counsel for the Respondent submits that terms of settlement was reached between the parties which has also been filed before the 'Committee of Creditors' but subsequently, the Appellant is not following the terms of settlement.

....contd.

7. However, as more than six months have already been passed and it appears that no terms of settlement is reached, we want to hear the appeal on merit.

8. Respondent may file affidavit within ten days as to why the appropriate order should not be passed in view of the e-mail dated 16<sup>th</sup> December, 2016 written on behalf of the 'Corporate Debtor' (page – 75) from which, it appears that there was a pre-existing dispute prior to issuance of Demand Notice dated 27.01.2018 u/s 8(1) of the of the Insolvency & Bankruptcy Code, 2016 ('I&B' Code, for short).

Post the case for 'orders' on **22<sup>nd</sup> August, 2019** for final disposal.

[Justice S. J. Mukhopadhaya]  
Chairperson

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

[Kanthi Narahari]  
Member (Technical)

ss/gc

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