

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Comp. Appeal (AT) (Ins) No.313 of 2020

IN THE MATTER OF:

Jayant Dattatrya Mhaiskar

...Appellant

Versus

Anil Goel

...Respondent

Present:

For Appellant: Mr. Mr. Virendra Ganda, Sr. Advocate with Mr. Rajiv Shankar Dvivedi Mr. S.K.Sarkar, Mr. Kumar Anurag Singh, Mr. Saurabh Jain, Mr. Vishal Ganda, Mr. Ayandeb Mitra and Ms. Anushka Sarkar, Advocates.

For Respondent: Ms. Kanishk Khetan and Mr. Nipun Gautam, Advocate for Respondent No.1 and Mr. Ekta Choudhary, Advocate for Respondent No.2.

O R D E R

13.03.2020 Heard learned Senior counsel for the Appellant who is representing the suspended Director of the Respondent Company. It is submitted that today the Appellant has handed over the settlement proposal to the Respondent No.2.

2. Learned counsel for the 2nd Respondent is seeking one weeks' time to get instructions with regard to settlement proposal from their clients.

3. Learned Senior counsel for the Appellant further submits that Canara Bank is the lead Bank of Financial Creditor, vide its letter dated 13.02.2020 given no objection to the Respondent Company for entering into an agreement to operate the Power Plant for Electricity Generation and Sale of Power under the Short Term Power Purchase Agreement ("PPA") with State Utility Maharashtra State Power

Generation Co. Ltd. Therefore, the 'Corporate Insolvency Resolution Process' be stayed for a week till the response on settlement communicated by the Respondent No.2 i.e. Corporation Bank.

4. It is also submitted that such stay order has been passed by this Tribunal in the case of Neeraj Jain Vs. Cloudwalker Streaming Technologies Pvt. Ltd., in Company Appeal (AT) (Insolvency) No. 1354 of 2019 on 25.11.2019.

5. Learned counsel for the Respondent No.1 representing 'Interim Resolution Professional' submits that the 'Committee of Creditors' meeting is already fixed for 16th March, 2020. Therefore, it will be better that the settlement proposal be put up before the CoC for consideration.

6. Learned counsel for the Respondent No.2 representing the Financial Creditor i.e. Corporation Bank is also opposing the prayer and submits that there is a huge amount due and at this juncture the Company is run by the IRP under the direction of CoC and the Appellant being suspended Director of the Company has no authority to enter into the power purchase agreement with State Utility Maharashtra State Power Generation Co. Ltd.

7. In such circumstances, if the proceedings are stayed then it will hamper the progress of Corporate Insolvency Resolution Process.

8. Having considered the submissions of learned counsels, we are of the view that the settlement proposal for consideration should be put up before the CoC meeting which is scheduled on 16.03.2020. Therefore, we are not inclined to pass

any order for staying the Corporate Insolvency Resolution Process. Thus the prayer of the Appellant is rejected.

9. Let the matter be fixed on 23rd March, 2020.

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

**[Mr. Balvinder Singh]
Member (Technical)**

**[Dr. Ashok Kumar Mishra]
Member (Technical)**

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