

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 1211 of 2019

IN THE MATTER OF:

Datamatics Digital Limited

...Appellant

Versus

**Sipani Online Pvt. Ltd.,
Through the Interim Resolution Professional
Konduru Prashanth Raju & Anr.**

...Respondents

Present:

For Appellant : Mr. Karan Malhotra, Advocate

For 1st Respondent: Ms. Shilpa Gamnani, Advocate

For 2nd Respondent : Mr. Ramchandra Madan, Advocate

O R D E R

16.03.2020 Application for impleadment of 'Promoter' /Director - Mr. Punit Kumar Sipani filed in terms of Diary No. 18810 is taken on record and he is impleaded as 2nd Respondent. I.A. No. 1120 of 2020 stands disposed of.

Learned counsel for the Appellant submits that in terms of 'Memorandum of Settlement dated 30th December, 2019 parties have arrived at an amicable settlement qua various claims/petitions/complaints including the subject matter of proceedings before the learned Adjudicating Authority as also the issues falling across the ambit of this appeal and agree to give a quietus to the dispute resulting in initiation of 'corporate insolvency resolution process'. This 'Memorandum of Settlement' has been executed on 30th December, 2019 whereas the order of admission of application under Section 9 of the 'Insolvency

and Bankruptcy Code, 2016 was passed on 18th July, 2019. It is, therefore, evident that the settlement, *inter-se*, the parties was worked out and parties arrived at settlement much prior to the constitution of the 'Committee of Creditors'.

Learned counsel for the Resolution Professional - Ms. Shilpa Gamnani, when asked, stated that the 'Committee of Creditors' has not been constituted so far and there is no other claim filed before the Resolution Professional.

In this factual backdrop, we deem it proper to invoke our inherent powers under Rule 11 of the NCLAT Rules, 2016 to allow the parties to settle the dispute which form the subject matter of proceedings before the Adjudicating Authority as also the present appeal. The settlement terms are taken on record. As a sequel thereto, the appeal is allowed.

In effect, order (s) passed by Ld. Adjudicating Authority appointing 'Interim Resolution Professional', declaring moratorium and all other order (s) passed by Adjudicating Authority pursuant to impugned order and action taken by the 'Resolution Professional' are set aside. The application preferred by the 1st Respondent under Section 9 of the I&B Code is disposed of as withdrawn. The Adjudicating Authority will now close the proceeding. The Respondent Company is released from all the rigour of law and is allowed to function independently through its Board of Directors from immediate effect.

The fees of the 'Resolution Professional', which is stated to have been fixed at Rs. 1,50,000/- (Rupees One Lakh Fifty Thousand only), is enhanced to Rupees Two Lakhs inclusive of the expenses incurred during the resolution process.

Since the learned counsel for the 'Resolution Professional' admits having received Rs. 50,000/-, balance amount of Rs. 1,50,000/- (Rupees One Lakh Fifty Thousand only) shall be paid by the Appellant (Operational Creditor) within two weeks, failing which it shall be open to the 'Resolution Professional' to approach learned Adjudicating Authority for revival of the proceedings and for recovering her fees and costs incurred. This will be apart from the power of this Appellate Tribunal being invoked for framing a rule against the Appellant (Operational Creditor) for initiation of the contempt proceedings.

The appeal is accordingly disposed of.

[Justice Bansi Lal Bhat]
Acting Chairperson

[Justice Anant Bijay Singh]
Member (Judicial)

[Shreesha Merla]
Member (Technical)

/ns/rr/