

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 1207 of 2019

IN THE MATTER OF:

Mr. Vijaya Kumar

...Appellant

Versus

Mr. Gopalsamy Ganesh Babu.

Liquidator & Anr.

...Respondents

Present:

**For Appellant: Mr. Kaushik N. Sharma and Mr. Sudhanshu Suman,
Advocates**

For Respondent: Mr. Gautam Singhal and Ms. Richa, Advocates for R-2.

O R D E R

12.02.2020 Learned Counsel for the Appellant states that in this matter 'Corporate Insolvency Resolution Process' proceeding was initiated on 15.07.2019. It is stated that there was only one meeting of 'Committee of Creditors' on 13th August, 2019 in which 'Interim Resolution Professional' was appointed as 'Resolution Professional'. Copy of the said minute is at Annexure A-4 (Page 590) and it shows Resolution No. 6 (Page 67) passed that the 'Corporate Debtor' is only a Trading Business and there is no possibility of making the 'Corporate Debtor' a going concern and it is resolved to liquidate the 'Corporate Debtor' rather than going for Resolution which is approved.

Learned Counsel for the Appellant states that the Appellant was actually going concern having done business of Rs. 19 Crores in the preceding year for which documents have been filed.

Learned Counsel states that the Appellant (Promoter of the Corporate Debtor) have already settled the dues of the only 'Financial Creditor' and 'Operational Creditors' who filed this application.

It is stated that from other 'Operational Creditors', the Appellant has taken No Objections.

Learned Counsel for the Appellant states that the Liquidation order needs to be set aside invoking inherent powers as the Appellant has settled with all 'Operational Creditors' and the 'Financial Creditor'.

Mr. Durga Prasad, Resolution Professionals states that the Appellant has settled with the only 'Financial Creditor'- ICICI Bank and has already settled with the 'Operational Creditors'.

Ms. Richa, Learned Counsel for the ICICI Bank also states that the claim of ICICI Bank has been settled.

The Appellant may file Affidavit with regard to the claims being made which are said to be settled and the learned counsel for the Resolution Professional is also directed to file report by way of Affidavit with regard to the developments and if Appellant has settled with all 'Financial Creditor' and 'Operational Creditors'. The same may be filed before 19th February, 2020.

List the Appeal 'For Orders' on **19th February, 2020**.

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

[Justice A.B. Singh]
Member (Judicial)

[Kanthi Narahari]
Member (Technical)