

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

**Company Appeal (AT) (Insolvency) No. 104 of 2020**

**IN THE MATTER OF:**

**Punit Beriwal**

**...Appellant**

**Vs.**

**M/s. Shambhu Agencies Pvt. Ltd. & Ors.**

**...Respondents**

**Present: For Appellant: - Mr. Sudhanshu Batra, Senior Advocate with Mr. Sarojanand Jha and Mr. Tushar Kumar, Advocates.**

**For Respondents:- Mr. Rajender Gupta, Senior Advocate with Mr. Sandeep Bajaj, Mr. Devansh Jain, Advocates for R-1.  
Mr. Hemant Kumar, Advocate for R-3.**

**O R D E R**

**21.01.2020—** ‘M/s. Shambhu Agencies Pvt. Ltd.’- (‘Financial Creditor’) moved an application under Section 7 of the Insolvency and Bankruptcy Code, 2016 (“I&B Code” for short) for initiation of the ‘Corporate Insolvency Resolution Process’ against ‘M/s. Vipul Limited’- (‘Corporate Debtor’). The Adjudicating Authority (National Company Law Tribunal), Principal Bench, New Delhi, by impugned order dated 15<sup>th</sup> January, 2020 admitted the application.

2. Learned counsel for the Appellant submits that no publication has been made by the ‘Interim Resolution Professional’ nor any ‘Committee of Creditors’ has been constituted. In the meantime, the Appellant has reached settlement with ‘Financial Creditor’.

3. Mr. Rajiv Virmani, Advocate prays for time to file intervention application on behalf of Resident Welfare Association and submits that

Contd/-.....

the flats/ apartments have been completed and already allotted as back as in the year 2007, but there are certain amounts payable to the Resident Welfare Association towards maintenance. In this regard, learned counsel for the Appellant submits that the Resident Welfare Association cannot come within the meaning of 'allottees', they having already been allotted the flats/ apartments.

4. However, we intend to hear the said issue on the next date and allow two days' time to the Resident Welfare Association to file an intervention application.

5. Mr. R.K. Gupta, Advocate appears on behalf of 'M/s. Shambhu Agencies Pvt. Ltd.' ('Financial Creditor') and accepts that the settlement has been reached.

6. Mr. Hemant Kumar, Advocate appears on behalf of the 'Interim Resolution Professional' and accepts that no publication has been made and no 'Committee of Creditors' has been constituted.

7. The Respondents are allowed two days' time to file their respective reply-affidavit along with Vakalatnama and intervention petition as ordered above.

Post the case 'for admission (fresh case)' on 29<sup>th</sup> January, 2020. The appeal may be disposed of on the next date.

In the meantime, the 'Interim Resolution Professional' will not issue any publication nor constitute any 'Committee of Creditors'. The Appellant and the Promoters will hand over the records and the project to the 'Interim Resolution Professional' if not yet handed over. The 'Interim Resolution Professional' will ensure that the company remains going concern and will take assistance of the (suspended) Board of Directors and the officers/ Directors/employees. The person who are

working will perform their duties including the paid Directors. The person who is authorised to sign the bank cheques may sign cheques only after authorisation of the 'Interim Resolution Professional' with counter signature of the 'Interim Resolution Professional' at the back side of the cheques. In such case, the Bank shall release the payment. The 'Interim Resolution Professional' will place this order before the Banks, in which accounts of 'Corporate Debtor' are maintained. The Bank Account(s) of the 'Corporate Debtor' be allowed to be operated for day-to-day functioning of the company such as for payment of Current Bills of the Suppliers, Salaries and Wages of the employees'/ workmen, electricity bills etc.

It will be also open to the Appellant to take up the matter with the Resident Welfare Association to settle the matter if any amount is due from one or other person in whose favour the flats/ apartments have been transferred and if any amount is payable to the Resident Welfare Association from the 'Corporate Debtor', they may negotiate and settle the same.

(Justice S.J. Mukhopadhaya)  
Chairperson

(Justice Bansi Lal Bhat)  
Member(Judicial)

(Justice Anant Bijay Singh)  
Member(Judicial)

Ar/RR