

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

**Company Appeal (AT) (Insolvency) No. 673 of 2020**

**IN THE MATTER OF:**

**Vinod Ramnani**

**...Appellant**

**Versus**

**ICICI Bank Ltd. & Ors.**

**...Respondents**

**Present:**

**For Appellant: Mr. Shashi Kiran Shetty, Sr. Advocate with Mr. Mahesh Thakur and Mr. Samarth Sreedhar, Advocates.**

**For Respondents: Mr. Anand Shankar Jha and Mr. Arpit Gupta, Advocates.  
Mr. Abhishek Anand and Mr. Pankaj Srivastava, Advocates for R-2 (IRP)**

**ORDER**  
**(Through Virtual Mode)**

**10.08.2020:** Mr. Shashi Kiran Shetty, Sr. Advocate, learned counsel for the Appellant submits that a post-admission development has taken place in the form of a settlement and under the terms of settlement forming page 176 to 180 of the appeal paper book the Appellant-Corporate Debtor has made a part-payment of Rs.4.5 crores to the Respondent.

2. Shri Anand Shankar Jha, Advocate representing Respondent No. 1 submits that three instalments are still pending. It is brought to our notice by Shri Abhishek Anand, Advocate representing Respondent No. 2 (IRP) that the Committee of

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Creditors is yet to be constituted. Thus, there would be no legal impediment in seeking an exit from the Corporate Insolvency Resolution Process through the medium of settlement inter-se the Financial Creditor and the Corporate Debtor. Learned counsel for the Appellant submits that he would not press the appeal, if stay granted by the Hon'ble High Court of Karnataka in Writ Petition No. 6640/2020 is extended for a period of two weeks to enable the Appellant/Corporate Debtor to approach the Adjudicating Authority (National Company Law Tribunal), Bangalore Bench for invoking its jurisdiction under Rule 11 of the National Company Law Tribunal Rules, 2016 in terms of Settlement Agreement and giving effect to it.

3. After hearing learned counsel for the Appellant and learned counsel for the Respondents, we find that there should be no hesitation in accepting the course suggested by learned counsel for the Appellant but we are constrained to observe that condition no.3 incorporated in the Terms of Condition of the Settlement Agreement on page 178 of the appeal paper book providing for keeping the Corporate Insolvency Resolution Process in abeyance for a period of 90 days is in conflict with the object of the statute viz. Insolvency and Bankruptcy Code, 2016 and is unenforceable for being void. Beyond this condition, other terms and conditions of the Settlement Agreement can be pressed before the learned Adjudicating Authority who will have the power and jurisdiction to terminate the

Corporate Insolvency Resolution Process by giving effect to the Settlement Agreement.

4. We accordingly dispose of this appeal. Keeping in view the interim stay passed by the Hon'ble High Court of Karnataka, we direct to keep the constitution of Committee of Creditors on hold for a period of two weeks from today to enable the Appellant-Corporate Debtor to take steps for invoking jurisdiction of the Adjudicating Authority in terms of Rule 11 of the NCLT Rules, 2016.

5. We make it clear that if in terms of the Settlement Agreement any instalment falls due for payment within the period of aforesaid two weeks, the payment thereof shall be effected by the Corporate Debtor in accordance with the terms of Settlement Agreement. This appeal stands disposed of. No costs.

**[Justice Bansi Lal Bhat]**  
**Acting Chairperson**

**[V. P. Singh]**  
**Member (Technical)**

**[Dr. Alok Srivastava]**  
**Member (Technical)**

*am/gc*

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