

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 774 of 2019

IN THE MATTER OF:

Ish Anand

...Appellant

Versus

Northern Freight Carriers & Anr.

...Respondents

Present:

For Appellant : Mr. Uttam Datt and Ms. Sonakshi Singh, Advocates

For 1st Respondent: Mr. Sumit Gupta, Advocate

For 2nd Respondent : Ms. Radhika Kumari Rai, Advocate

Mr. Prabhat Ranjan, IRP

ORDER

31.07.2019 The Appellant – ‘Ish Anand’, Shareholder/Director of ‘Super Flooring Private Limited (Corporate Debtor) preferred this appeal against order dated 18th July, 2019 passed by the Adjudicating Authority (National Company Law Tribunal), New Delhi Bench, Court-III whereby an application u/s 9 of the ‘Insolvency and Bankruptcy Code, 2016’ (for short, ‘the I&B Code’) by Respondent – ‘Northern Freight Carrier (Delhi)’ is admitted, on one of the ground that there was a ‘pre-existing dispute’ and the application u/s 9 was not maintainable.

However, when the matter was taken up, learned counsel for the Appellant submits that the Appellant has already settled the matter with 1st Respondent – ‘Northern Freight Carrier’ (Operational Creditor) and draft is ready for payment in terms of settlement. It is further informed that 6th August, 2019 is the last date for filing claim, and, therefore, ‘Committee of Creditors’ have not been constituted.

Mr. Sumit Gupta, Advocate accepts notice on behalf of the 1st Respondent – ‘Northern Freight Carriers’. Ms. Radhika Kumari Rai, Advocate appears on behalf of 2nd Respondent (IRP). No further notice need be issued on them.

1st Respondent is allowed four days’ time to file reply-affidavit along with Vakalatnama to state as to whether 1st Respondent has reached settlement and ‘Interim Resolution Professional’ is also allowed 4 days’ time to file reply-affidavit as to whether the ‘Committee of Creditors’ have been constituted as on date i.e. 31st July, 2019 and if any settlement is reached then what is the fee payable to the ‘IRP’ and the cost incurred by him.

Post the case ‘for orders’ on **5th August, 2019**. The appeal may be disposed of on the next date.

In the meantime, the ‘Interim Resolution Professional’ may not constitute ‘Committee of Creditors’ if not yet constituted till the next date and 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 is authorised to sign the bank cheques may issue cheques but only after approval of the ‘Interim Resolution Professional’. The bank account 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.

[Justice S.J. Mukhopadhaya]
Chairperson

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

[Kanthi Narahari]
Member (Technical)

/ns/sk