

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

**Company Appeal (AT) (Insolvency) No. 497 of 2019**

**IN THE MATTER OF:**

**Savinder Singh**

**...Appellant**

**Versus**

**Alloysmin Industries & Anr.**

**...Respondents**

**Present:**

**For Appellant :** Ms. Anjali Jain, Advocate

**For 1<sup>st</sup> Respondent:** Mr. Sagar Aggarwal, Advocate

**For 2<sup>nd</sup> Respondent :** Ms. Tanish Singh, Advocate  
Mr. Brijesh Kumar Tamber, IRP

**O R D E R**

**07.05.2019** 'Alloysmin Industries' (Operational Creditor) filed an application under Section 9 of the Insolvency and Bankruptcy Code, 2016 (for short, the '**I&B Code**') against 'Raman Casting (P) Ltd.' (Corporate Debtor) for initiation of 'corporate insolvency resolution process' which was subsequently, rejected by the Adjudicating Authority (National Company Law Tribunal), New Delhi Bench on 17<sup>th</sup> September, 2018. 'Alloysmin Industries' (Operational Creditor) had preferred the appeal wherein this Appellate Tribunal in '*Company Appeal (AT) (Insolvency) No. 684 of 2018*' by order dated 21<sup>st</sup> January, 2019 allowed the case and set aside the impugned order dated 17<sup>th</sup> September, 2018 and the case was remitted to the Adjudicating Authority to admit the application under Section 9 of the I&B Code without going into other issues, in view of deemed service on the 'Corporate Debtor' but ordered to issue fresh notice to

enable the parties to settle the matter. After such remand, the Adjudicating Authority (National Company Law Tribunal), New Delhi, Court-III admitted the case on 10<sup>th</sup> April, 2019 in absence of any settlement, which is under challenge in this appeal. Learned counsel for the appellant submitted that the 'Terms of Settlement' were reached between the parties on 29<sup>th</sup> April, 2019 and the amount in 'Terms of the Settlement' has already been paid. It was also submitted that the 'Committee of Creditors' have not been constituted.

2. Mr. Sagar Aggarwal, learned counsel appearing on behalf of the 'Operational Creditor' accepted that the matter has been settled in terms of the 'Settlement Agreement'. Mr. Brijesh Kumar, Interim Resolution Professional has appeared in person. He also informs that the 'Committee of Creditors' has not been constituted and the claims are not received till date. He further informs that his fee is Rs. 1 Lakh and he has incurred expenditure of Rs. 20,000/- towards publication of notice etc.

3. Taking into consideration the fact that the 'Corporate Debtor' is a small scale industry and the parties have reached settlement; the 'Committee of Creditors' have not been constituted and till date no claim has been received except the 'Operational Creditor' (Respondent before us), who also has not filed a claim, in view of the settlement; we set aside the impugned order dated 10<sup>th</sup> April, 2019 and allow the respondent 'Operational Creditor' to withdraw the application under Section 9 of the I&B Code. The Adjudicating Authority will close the proceedings.

4. So far as the fee and resolution cost of the 'Interim Resolution Professional' is concerned, the Corporate Debtor will pay a sum of Rs. 1,20,000/- in his favour within three weeks.

5. 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 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.

6. The appeal is allowed with aforesaid observations and directions. No costs.

[Justice S.J. Mukhopadhaya]  
Chairperson

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

/ns/gc