

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

**Company Appeal (AT) (Insolvency) No. 582 of 2019**

**IN THE MATTER OF:**

**T. Dhanasekar**

**...Appellant**

**Versus**

**M/s. Vinayak Cotton Agencies & Anr.**

**...Respondents**

**Present:**

**For Appellant :**

**Mr. S.S. Madhavan and Mr. Ananda Selvam,  
Advocates**

**For Respondents:**

**Mr. C. Rubavathi, Advocate for R-1  
Mr. P.K. Kar and Mr. A.P. Bharat Kumar, Advocates  
  
Mr. V. Venkata Sivakumar, IRP**

**O R D E R**

**03.07.2019** 'M/s. Vinayak Cotton Agencies' (Operational Creditor) filed an application u/s 9 of the 'Insolvency and Bankruptcy Code, 2016 (for short, 'the I&B Code') against 'M/s. Mariyammal Spinners Pvt. Limited' (Corporate Debtor), which having admitted on 20<sup>th</sup> May, 2019 by the Adjudicating Authority (National Company Law Tribunal), Division Bench, Chennai, the present appeal has been preferred by Mr. T. Dhanasekar, Managing Director of the 'Corporate Debtor'.

2. On 3<sup>rd</sup> June, 2019, the learned counsel for the Appellant and the 1<sup>st</sup> Respondent (Operational Creditor) appeared and intimated that the Appellant reached the settlement with the 'Operational Creditor' and the 'Committee of

Creditors' has not yet been constituted. In that background, we allow them to settle the dues before the constitution of the 'Committee of Creditors'.

3. Today, it is informed that the in terms of the 'Settlement' the total dues of Rs. 2.58 Crores has been paid by the Appellant in favour of the Respondent – 'M/s. Vinayak Cotton Agencies'. Learned counsel for the Respondent also agrees. It is also accepted by 'Mr. V. Venkata Sivakumar, Interim Resolution Professional appeared and accepted that 'Committee of Creditors' has not yet been constituted though he has collated some claims. It is submitted that the fee and resolution cost payable will be paid by the Appellant. Learned counsel for the Appellant submits that he will pay the fee and the resolution cost to Mr. V. Venkata Sivakumar, IRP within three week.

4. In the facts and circumstances exercising inherent powers under Rule 11 of the National Company Law Appellate Tribunal Rules, 2016, we allow the settlement and set aside the impugned order dated 20<sup>th</sup> May, 2019. We allow the 1<sup>st</sup> Respondent to withdraw the application u/s 9 filed by the 1<sup>st</sup> Respondent which is dismissed as withdrawn. The proceedings before the Adjudicating Authority (National Company Law Tribunal), Division Bench, Chennai is closed.

5. The Appellant is directed to pay the total fee and the resolution cost to the 'Interim Resolution Professional' within 3 weeks.

6. 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.

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

[Justice S.J. Mukhopadhaya]  
Chairperson

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

[ Kanthi Narahari ]  
Member (Technical)

/ns/gc