

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 678 of 2020

IN THE MATTER OF:

Ambika Seth

...Appellant

Versus

Apavarga Trading Company & Anr.

...Respondents

Present:

**For Appellant: Mr. Santosh Krishnan and Ms. Sonam Anand,
Advocates.**

**For Respondents: Mr. Shailendra Kumar and Mr. Sumit Kaushal,
Advocates for R-1.**

Mr. Rajendra Beniwal, Advocate for R-2.

Mr. Navdeep Gupta, IRP

O R D E R

(Through Virtual Mode)

13.08.2020: The issue raised in this appeal is that there was a pre-existing dispute qua a portion of the Operational Debt and learned counsel for the Appellant has made reference to email dated 16th December, 2017 wherein such dispute has been raised. However, at the same time it is submitted that the Corporate Debtor has settled the claim of the Operational Creditor in terms of Consent Terms/Settlement Agreement dated 7th August, 2020 and all disputes regarding the subject matter of insolvency resolution proceeding have been settled. Having regard to the same, learned counsel for the Appellant submits that the matter be disposed of in terms of the Settlement Agreement.

2. Keeping in view the fact that the parties have amicably settled the dispute in terms of the Settlement Agreement dated 7th August, 2020, we dispose of this appeal with liberty to the Appellant to file the Consent Terms/ Settlement

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Agreement before the Adjudicating Authority (National Company Law Tribunal), New Delhi, Special Bench, Court-II who would pass appropriate order thereon keeping in view the fact that the Committee of Creditors is yet to be constituted and exit from the Corporate Insolvency Resolution Process is permissible at the post-admission stage in view of the settled law on the subject. The Interim Resolution Professional shall not constitute the Committee of Creditors for two weeks from today to enable the Appellant to file the Consent Terms/Settlement Agreement before the Adjudicating Authority, who will pass appropriate order and close the case on the basis of such Settlement Agreement upon being satisfied with regard to its validity, legality and conscionability. The Adjudicating Authority will also fix the fee of the Interim Resolution Professional having regard to the period for which he has worked and the fact that the Committee of Creditors is yet to be constituted. The appeal is accordingly disposed of.

3. A copy of this order be sent to the Adjudicating Authority (National Company Law Tribunal), New Delhi Bench.

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

**[Justice Anant Bijay Singh]
Member (Judicial)**

**[Dr. Ashok Kumar Mishra]
Member (Technical)**

am/gc