

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 636 of 2019

IN THE MATTER OF:

Ashish Das Appellant

Vs

Daimler Financial Services Pvt. Ltd. & Anr. Respondents

Present:

For Appellant: Ms. Purti Marwaha Gupta, Advocate.

For Respondents: Mr. Mohd A., Advocate for RP.

ORDER

23.09.2019 By way of last chance, we allow the Appellant to settle the claim with the 'Committee of Creditors' and to enable the Appellant to take steps under Section 12A of the Insolvency and Bankruptcy Code, 2016 (for short the 'I&B Code'). If such settlement is reached within three weeks, the Appellant will bring it to the notice of the 'Resolution Professional' for placing the matter before the 'Committee of Creditors', who may consider the application under Section 12A and may consider the same for the purpose of its voting. In case, it is voted with more than 90% of voting share, 1st Respondent will file an application for withdrawal of the application under Section 7 of the I&B Code and the Adjudicating Authority will consider the same.

However, the aforesaid order is passed as earlier on 2nd July, 2019, we observed that no *prima facie* case is made out in the impugned order, but to

give an opportunity, we allowed the request of the Counsel for the Appellant. We make it clear that we have not stayed the proceeding and the 'Resolution Professional' is to act in accordance with law and to ensure that the company remains a going concern in terms of order dated 2nd July, 2019. It is for the parties to decide the terms of settlement and 'Committee of Creditors' is independent to decide its merit. The Appeal is disposed of with aforesaid observations. No costs.

[Justice S. J. Mukhopadhaya]
Chairperson

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

[Kanthi Narahari]
Member (Technical)