

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Ins) No. 163 of 2019

IN THE MATTER OF:

Robin Dahiya

....Appellant

Vs.

M/s. Shankar Nutricon Pvt. Ltd. & Anr.

....Respondents

Present: For Appellant: Mr. Shyam Babu, Advocate

For Respondents: Mr. Saurabh Agrawal, Advocate for R-1

ORDER

19.03.2019: On 19th February, 2019 the appellant submitted on behalf of the 'Corporate Debtor' that it is ready to settle the claim of the respondent - 'Operational Creditor'. This Appellate Tribunal adjourn the case to enable the parties to settle the claim. Mr. Gopal Sharma, authorised representative for the 'Operational Creditor' appeared on 11th March, 2019 and accepted that the settlement has been made. 'Terms of settlement' dated 8th March, 2019 has been enclosed to the affidavit filed by 'Operational Creditor'. In terms of the said settlement apart from the payment of the dues, it is agreed that the parties will pay the cost and resolution fee of the 'Interim Resolution Professional' which will be borne equally (fifty-fifty per cent) by both the parties. It is also informed that the 'Committee of Creditors' has not been constituted and before the same, the settlement has been reached. Mr. Arjun Aggarwal, appears on behalf of the 'Interim Resolution Professional'. He informed that the 'Resolution Professional' has filed claim of Rs.4,39,380. However, it has been disputed by the appellant.

Taking into consideration the decision of the Hon'ble Supreme Court in '**Swiss Ribbons Pvt. Ltd. & Anr. vs. Union of India & Ors. – Writ Petition (Civil) No. 99 of 2018**' (2019 SCC OnLine SC 73) and we find that the parties have reached the settlement on 8th March, 2019 before the constitution of the 'Committee of Creditors', we allow the 1st Respondent to withdraw the application under Section 9, as prayed for.

In the result, the application under Section 9 shall stands withdrawn.

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 The application preferred by the 1st Respondent under Section 9 of the I&B Code is disposed of as withdrawn. The Adjudicating Authority will now close the proceeding. The 2nd Respondent Company is released from all the rigour of law and is allowed to function independently through its Board of Directors from immediate effect.

So far as the fee and resolution cost of the 'Interim Resolution Professional' is concerned, taking into consideration the fact that he has already incurred a cost of Rs. 62,562/-, and we quantify the amount @ Rupees Three Lakhs Fifty thousand be paid jointly by the appellant and the 1st Respondent – 'M/s. Shankar Nutricon Private Limited' (Corporate Debtor) i.e. Rupees One Lakh and Seventy Five Thousands each within three weeks.

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

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

ns/gc