

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 556 of 2019

IN THE MATTER OF:

Mr. Vishnu Aggarwal & Anr. Appellants

Vs

Ashok Kumar Sharma Respondent

Present:

For Appellants: Mr. Arjun Swahney, Advocate.

For Respondent: Mr. Vasu Khera, Advocate.

ORDER

29.05.2019 This Appeal has been preferred by the Appellant, Director of M/s Jay Sai Ram Steel Pvt. Ltd. challenging order dated 16th May, 2019 passed by the Adjudicating Authority (National Company Law Tribunal), New Delhi Bench, admitting application under Section 9 of the Insolvency and Bankruptcy Code, 2016 (I&B Code) preferred by Respondent –Ashok Kumar Sharma, Proprietor, Alloysmin Industries (Operational Creditor). The matter was taken up on 23rd of May, 2019, when learned Counsel for the Appellant submitted that the Appellant is ready with the draft of the original amount of Rs.4,97,699/- for payment in favour of the ‘Operational Creditor’. Advocate Mr. Vasu Khera also appeared on behalf of the ‘Operational Creditor’ and agreed to accept the draft and settle the matter in view of the instructions received by him from his client. However, we issued notice to hear the ‘Interim Resolution Professional’.

2. Mr. S. Kumar, Authorized Representative of Ms. Madhu Juneja, Interim Resolution Professional (in person) has appeared. It is stated, pursuant to the newspaper advertisement, it has received claims, which 'Interim Resolution Professional' is collating. It is also accepted that no 'Committee of Creditors' has been constituted. She further submits that a sum of Rs.25,000/- have been incurred towards the Resolution cost till date.

3. In the facts and circumstances, we allow the parties to settle the matter for a sum of Rs.4,97,699/-. The draft bearing No.2185585 dated 2nd May, 2019 issued by Punjab National Bank, Model Town, Sonipat (Haryana) in the name of Alloysmin Industries Ltd. for Rs.4,97,699/- is being handed over by Counsel for the Appellant to Mr. Vasu Khera, Counsel for the 'Operational Creditor' for onwards transmission to the 'Operational Creditor'. We also assess the fee of the 'Interim Resolution Professional' at Rs.50,000/- plus a sum of Rs.25,000/- towards costs incurred to be paid by the Appellant-Corporate Debtor in favour of the 'Interim Resolution Professional' Ms. Madhu Juneja within three weeks.

4. In view of such settlement, impugned order dated 16th May, 2019 is set-aside. The application under Section 9 preferred by the Respondent stands disposed of as withdrawn. The Adjudicating Authority will close the proceedings.

5. In effect, order (s), passed by the Adjudicating Authority appointing any 'Interim Resolution Professional', declaring moratorium, freezing of account, and all other order (s) passed by the Adjudicating Authority pursuant to impugned order and action, if any, taken by the 'Interim

Resolution Professional’, including the advertisement, if any, published in the newspaper calling for applications all such orders and actions are declared illegal and are set aside. The application preferred by Respondent under Section 9 of the I&B Code, 2016 is dismissed. Learned Adjudicating Authority will now close the proceeding. The appellant ‘Corporate Debtor’ (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. However, in the facts and circumstances of the case, there shall be no order as to cost.

[Justice S. J. Mukhopadhaya]
Chairperson

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

[Kanthi Narahari]
Member (Technical)

Ash/GC