

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 85 of 2019

IN THE MATTER OF:

Sanju Rajendra Kashyap

...Appellant

Vs

Shri Shankar Menon

....Respondent

Present:

**For Appellant: Mr. Aabhas Parimal, Mr. Ashutosh Thakur,
Mr. Dipendra Singh, Mr. R. Prashant and Ms. Tanya
Choudhary, Advocates.**

For Respondent:

ORDER

25.01.2019: This appeal has been preferred by shareholder of 'M/s Ram Agri-Infra India Pvt. Ltd.' (Corporate Debtor) against order dated 28th December, 2018 passed by the Adjudicating Authority (National Company Law Tribunal), Mumbai Bench whereby the application under Section 9 filed by Respondent has been admitted.

2. Learned counsel appearing on behalf of the Appellant submits that the parties have settled the claim on 11th January, 2019 and earlier the Adjudicating Authority has stayed the order to enable the parties to settle. He stated that the accounts of the Corporate Debtor having taken care by the Insolvency Resolution Professional, the Appellant is not able to pay the settled amount.

3. In the present case, as we find that the application under Section 9 has been admitted, Form-5 being complete and there being a default in payment of

debt, having no pre-existing dispute and in absence of any illegality we are not inclined to interfere with the impugned order dated 28th December, 2018. However, this order will not come in the way of the Appellant/shareholder(s) to take advantage of Section 12A of the I&B Code or to move before an appropriate forum for an appropriate relief. The appeal stands disposed of with aforesaid observations. No costs.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

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