

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**NEW DELHI**

**I.A. No. 4030 of 2019**

**IN**

**Company Appeal (AT) (Insolvency) No. 1111 of 2019**

**IN THE MATTER OF:**

**Mr. H.G. Vijay Kumar**

**...Appellant**

**Versus**

**Anthena Advisory Services Pvt. Ltd. & Anr.**

**...Respondents**

**Present:**

**For Appellant :**                   **Mr. Manan Jaiswal and Mr. Neelkamal Mishra,**  
**Advocates**

**For 1<sup>st</sup> Respondent:**       **Mr. Mayank Kshirsagar and Mr. Parthasarthy Bose**  
**Pankhuri, Advocates**

**O R D E R**

**06.12.2019** ‘Athena Advisory Services Pvt. Ltd.’ (Financial Creditor) filed an application under Section 7 of the ‘Insolvency and Bankruptcy Code, 2016 (for short, ‘the **I&B Code**’) for initiation of the ‘Corporate Insolvency Resolution Process’ against ‘Tanvi Construction Pvt. Ltd.’ The Adjudicating Authority (National Company Law Tribunal), Mumbai Bench, Mumbai by impugned order dated 14<sup>th</sup> October, 2019 admitted the application, by non-speaking order, which is as follows:

*“Heard the argument of the Ld. Counsel for the parties.*

*The Company Petition is admitted.”*

2. On notice the Respondents have appeared and accepted that no reasoned order has been passed. The parties sought for clarification, on which the Adjudicating Authority by order dated 18<sup>th</sup> November, 2019 observed as follows:

*“The matter has been mentioned before us and it was submitted by the Counsel for the Petitioner that the petition is admitted on 14.10.2019, however no reasoned order came to be passed.*

*We have verified the records and we state that no reasoned order has been passed due to elevation of the Member (Judicial) on 22.10.2019, except the one which is filed before the Hon’ble NCLAT. Since the matter has already been admitted and no Insolvency Professional had taken charge and in view of the fact that the matter is seized by the Hon’ble NCLAT, we are bound by the orders of Hon’ble NCLAT and if Hon’ble NCLAT directs us to rehear the matter, we will rehear the matter and pass reasoned order.”*

3. A copy of the aforesaid order has been produced with the Interlocutory Application.
4. Learned counsel for the Appellant submits that the parties have settled the matter and the amount has been paid to the Respondent – ‘Athena Advisory Services Pvt. Ltd.’ Mr. Mayank Kshirsagar, learned counsel appearing on behalf of the Respondent also accepts the same. Consent ‘Terms of Settlement’ has been enclosed with ‘Interlocutory Application No. 4030 of 2019’. It is also informed that no ‘Interim Resolution Professional’ has been appointed.
5. In the circumstances we set aside the impugned order dated 14<sup>th</sup> October, 2019 and in view of the fact that the parties have settled the matter, we dispose of the application under Section 7 of the ‘I&B Code’ preferred by the ‘Athena

Advisory Services Pvt. Ltd.’ as withdrawn. The Adjudicating Authority (National Company law Tribunal), Mumbai Bench, Mumbai will close the proceedings. The interim order passed on 11<sup>th</sup> November, 2019 prohibiting the Appellant stands vacated.

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

[Justice S.J. Mukhopadhaya]  
Chairperson

[Justice Bansi Lal Bhat]  
Member (Judicial)

[Justice Venugopal M.]  
Member (Judicial)

/ns/sk