

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

**Company Appeal (AT) (Insolvency) No. 94 of 2017**  
**(Under Section 61 of the Insolvency and Bankruptcy Code, 2016 against**  
**order dated 27.06.2017 passed by National Company Law Tribunal,**  
**Principal Bench in C.P.(IB) No.60/(PB)/2017)**

**IN THE MATTER OF:**

**Mother Pride Dairy India Pvt. Ltd.**

**...Appellant**

**Versus**

**Portrait Advertising & Marketing Pvt. Ltd.**

**...Respondent**

**Present: For Appellant: - Shri Surabh Kalia, Ms. Samridhi Gogia,  
Advocates.**

**For Respondent :- Shri Akshay Sapra and Shri Jaideep Singh,  
Advocates.**

**ORDER**

**13.07.2017** The appellant has challenged the order dated 27<sup>th</sup> June, 2017 passed by Adjudicating Authority (National Company Law Tribunal), New Delhi in C.P. No.(IB)-60(PB)/2017, whereby the application preferred by respondent - Operational Creditor under Section 9 of the Insolvency and Bankruptcy Code, 2016 (I&B Code, 2016) has been admitted and order of moratorium has been ordered.

Learned counsel appearing on behalf of the appellant submits that the appellant is negotiating with the respondent to settle the dispute. However, that cannot be a ground to interfere with the impugned order in absence of any illegality. Learned counsel appearing on behalf of the Operational Creditor next contended that the parties have, in fact, settled the dispute and payment has been made. However, it is not in dispute that the settlement has been made after admission of the application under Section 9 of the I&B Code, 2016. In view of Rule 8 of

Insolvency & Bankruptcy (Adjudicating Authority) Rules, 2016, it was open to the Operational Creditor to withdraw the application under Section 9 before its admission but once it was admitted, it cannot be withdrawn even by the Operational Creditor, as other creditors are entitled to raise claim pursuant to public announcement under Section 15 read with Section 18 of the I&B Code, 2016.

For the reason afore and in absence of any merit, the appeal cannot be allowed. The prayer as made is accordingly rejected.

However, we make it clear that the impugned order passed by learned Adjudicating Authority, Principal Bench New Delhi or this order passed by the Appellate Authority will not come in the way of the appellant to satisfy and settle the claim of other creditors. If the appellant satisfies the claim of other creditors, whoever has made claim, in that case Insolvency Resolution Professional will bring the matter to the notice of learned Adjudicating Authority for closure of the resolution process. The learned Adjudicating Authority in such case will consider the case in accordance with law, even before completion of Resolution process and may close the matter.

The Appeal is dismissed with the aforesaid observation. No cost.

[ Justice S.J. Mukhopadhaya ]  
Chairperson

[ Balvinder Singh ]  
Member (Technical)

/aks/