

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 1512 of 2019

IN THE MATTER OF:

Mrs. Nazia Yusuf Izuddin

...Appellant

Vs.

Mr. Vishal Sethi & Anr.

...Respondents

Present: For Appellant: - appeared but not marked appearance

For Respondents:- Mr. Shashwati Parihar, Advocate.

O R D E R

24.01.2020— Mr. Vishal Sethi ('Operational Creditor') moved an Application under Section 9 of the Insolvency and Bankruptcy Code, 2016 ('I&B Code' for short) against 'M/s. S and N Lifestyle Hospitality Private Limited'- ('Corporate Debtor'). The Adjudicating Authority (National Company Law Tribunal), New Delhi Bench, by impugned order dated 9th December, 2019 admitted the Application.

2. When the matter was taken up on 20th December, 2019, learned counsel for the Appellant submits that the 1st Respondent never served any Demand Notice under Section 8(1) of the 'I&B Code' and the Application under Section 9 was filed without serving the copy of the same and that there was a pre-existing dispute. It was also informed that the 'Interim Resolution Professional' has not made any publication nor constituted the 'Committee of Creditors'.

Contd/-.....

3. On 16th January, 2020, learned counsel for the Appellant was ready to pay the full amount i.e. Rs. 3,08,000/- and wanted to hand over the TDS Certificate to the Respondent.

Mr. Shashwat Parihar, Advocate appeared on behalf of the 'Operational Creditor' and submitted that the Respondent has no objection if the amount is paid as suggested. Mr. T.A.Ramamurthy, 'Interim Resolution Professional' was also present and intimated that no publication has been made and the 'Committee of Creditors' has not been constituted and he has worked for about a month. Learned counsel for the Appellant submitted that the Appellant will pay a sum of Rs.50,000/- to Mr. T.A. Ramamurthy to which he has no objection.

4. Today, learned counsel for the Appellant has handed over a Demand Draft No. 096763 for Rs. 3,08,000/- to Mr. Vishal Sethi, who has appeared, in person, and recognised by Mr. Shashwat Parihar, Advocate. Another Demand Draft No. 096762 for Rs.50,000/- is handed over to Mr. T.A.Ramamurthy, 'Interim Resolution Professional' who is also present in person. He also handed over the TDS Certificate to the counsel for the Respondent.

5. In view of the aforesaid development and in exercise of powers conferred under Rule 11 of the National Company Law Appellate Tribunal Rules, 2016, we set aside the impugned order dated 9th December, 2019 and allow Mr. Vishal Sethi ('Operational Creditor') to withdraw the Application under Section 9 which stands disposed of as withdrawn. The Adjudicating Authority will now close the proceedings. The 'Interim Resolution Professional' will immediately hand over the records and assets of the 'Corporate Debtor' to the management of the 'Corporate Debtor'. The 'Corporate Debtor' (company) is released from all the rigours

of Law and is allowed to function independently through its Board of Directors from immediate effect.

The Appeal is allowed with the aforesaid observations and directions. However, in the facts and circumstances of the case, there shall be no order as to cost.

(Justice S.J. Mukhopadhaya)
Chairperson

(Shreesha Merla)
Member(Technical)

Ar/RR