

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

**Company Appeal (AT) (Insolvency) No. 279 of 2017**

**IN THE MATTER OF:**

**Madhukar Tulsi**

**...Appellant**

**Versus**

**Ajay Kumar Gupta & Ors.**

**...Respondents**

**Present:**

**For Appellant :**

**Shri U.K. Chaudhary, Senior Advocate assisted  
by Shri Parminder Singh and Shri Himanshu  
Vij, Advocates**

**For 1<sup>st</sup> Respondent:**

**Shri Sachin Jain and Shri Ajay Gupta,  
Advocates**

**O R D E R**

**30.11.2017**        The appellant, Director of IERO Fiveriver Pvt. Ltd. (Corporate Debtor) has preferred this appeal against order dated 13<sup>th</sup> November, 2017 passed by the Adjudicating Authority (National Company Law Tribunal), New Delhi in C.P. No. IB-355/ND/2017 whereby and whereunder the application preferred by Ajay Kumar Gupta and Mrs. Poonam Gupta under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the "I&B Code") has been admitted, order of moratorium has been passed and Interim Resolution Professional has been appointed.

When the matter was taken up, learned Senior Counsel for the appellant submits that settlement has been reached between the Corporate Debtor and Financial Creditor on 18<sup>th</sup> November, 2017 and thereby requested to dispose of the appeal in terms of the settlement. However, as this Appellate Tribunal is not empowered to accept any settlement/agreement reached between the parties, in

absence of any illegality in the impugned order dated 13<sup>th</sup> November, 2017, no interference is called for against the impugned order.

At this stage, it is desirable to notice Rule 8 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, which reads as follows:

“8. *Withdrawal of application.—The Adjudicating Authority may permit withdrawal of the application made under rules 4, 6 or 7, as the case may be, on a request made by the applicant before its admission.*”

From the aforesaid Rule, it is clear that before admission of an application under section 7 or 9 or 10, the Adjudicating Authority may permit the applicant to withdraw the application, but after admission of the application, the application cannot be withdrawn.

For the reasons aforesaid, no relief can be granted by this Appellate Tribunal, though we find that parties have settle the dispute which is also accepted by the learned counsel for the Financial Creditor.

However, the order passed by this Appellate Tribunal will not come in the way of the appellant to ask for appropriate relief from the Hon'ble Supreme Court.

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

[Justice S.J. Mukhopadhaya]  
Chairperson

[ Justice Bansi Lal Bhat ]  
Member(Judicial)

/ns/uk