

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

**Company Appeal (AT) (Ins) No.282 of 2020**

**IN THE MATTER OF:**

**R. Balasubramanian**

**...Appellant**

**Versus**

**M/s. ABB India Ltd. & Anr.**

**...Respondents**

**For Appellant:                    Shri Rajiv Ranjan, Sr. Advocate with Shri Saurabh Jain, Advocate**

**For Respondents:                Shri Smarth Arora, Advocate (R-2)**

**O R D E R**

**18.02.2020**            Heard Counsel for Appellant. It is stated that this Tribunal had by Order dated 17<sup>th</sup> January, 2020 passed in Company Appeal (AT) (Ins) No.1431 of 2019 sent back the matter to the Adjudicating Authority (National Company Law Tribunal, Division Bench - I, Chennai) due to settlement between the Operational Creditor and the Corporate Debtor which was dated 7<sup>th</sup> January, 2020. It is stated that COC (Committee of Creditors) has yet not been constituted and that when this Tribunal sent back the matter to the Adjudicating Authority for taking action in terms of Section 12A of Insolvency and Bankruptcy Code, 2016 (IBC – in short) read with Regulation 30A to seek appropriate remedy, according to the learned Counsel, the only option available for the Adjudicating Authority was to accept the settlement. It is stated that Regulation 30A does not require sending Notice to the Financial Creditors which are banks and seek their response to the Application for withdrawal. The learned Counsel states that there are various Judgements

passed by this Tribunal where the settlements have been accepted by this Tribunal even in the Appeal.

We have gone through the Impugned Order and we keep in view Para – 79 of the Judgement in the matter of “**Swiss Ribbons Pvt. Ltd. & Anr. vs. Union of India & Ors.**” reported as 2019 SCC OnLine SC 73. It appears to us that as per the Impugned Order, the Adjudicating Authority is yet to take a final decision with regard to the Application filed under Section 12A for withdrawal of the Application which had been admitted under Section 9 of IBC. It appears to us that the Appeal is premature and we decline to entertain the Appeal at this stage. The issues being raised can be considered at an appropriate stage.

The Appeal is disposed. No Orders as to costs.

[Justice A.I.S. Cheema]  
Member (Judicial)

(Justice A.B. Singh)  
Member (Judicial)

[Kanthi Narahari]  
Member (Technical)

*/rs/md*