

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency)No. 847 of 2019

IN THE MATTER OF:

Girish Agarwal

.....Appellant

Vs.

M/s. Lavis Signature Panel Pvt. Ltd.

.....Respondent

Present :

For Appellant:

Mr. Rajiv Shukla, Ms. Shivani Kapoor, Mr. Gorang Goyal, Advocates

Mr. Girish Agarwal

For Respondents:

Mr. Syed SarFaraz Karim, Mr. Shashwat, Advocates for R-2

Ms. Nikshubha Sethi, Advocate for R-1

O R D E R

13.09.2019 - Learned counsel for the Appellant submits that the matter has been settled with the Respondent – ‘Operational Creditor’. Earlier, the ‘Corporate Debtor had paid the sum of Rs. 3 lakhs just before the admission of application u/s 9 of the ‘I&B’ Code. Rest of the amount of Rs. 4,26,672/- which was the amount shown in the Demand Notice has been paid on 11th September, 2019.

A letter addressed by one Mr. Rajiv Shukla, Advocate on behalf of the Appellant to Ms. Priyanka Kakkar, Advocate dated 12th September, 2019 has

....contd.

been produced to suggest that the amount has been paid to her.

Ms. Nikshubha Sethi, learned counsel appears on behalf of Ms. Priyanka Kakkar accepts that the parties have settled the matter. The 'Committee of Creditors' have not been constituted.

Mr. Syed S. Karim, learned counsel appears on behalf of the 'Interim Resolution Professional' accept that 'Committee of Creditors' have not been constituted and submits that IRP has incurred cost of Rs. 1,32,000/- approx. including the cost paid and payable to the Counsel.

In the circumstances, working for 42 days, we accept the fee of Mr. Anurag Nirbhaya, IRP at Rs. 1,50,000/- for the total period. Therefore, Mr. Anurag Nirbhaya will be entitled to receive a sum of Rs. 2,82,000/- which is to be paid by the Appellant / 'Corporate Debtor' within three weeks failing which, it will be open to the IRP to bring the aforesaid fact to the notice of this Appellate Tribunal for appropriate orders.

In view of the settlement reached between the parties in exercise of power conferred under Rule 11 of NCLAT Rules, 2016, we set aside the impugned order dated 30th July, 2019 whereby the 'Corporate Insolvency Resolution Process' was initiated against 'M/s. Nikunj Woods Pvt. Ltd.' ('Corporate Debtor'). The application u/s 9 of the 'I&B' Code filed by 'M/s. Lavis Signature Panel Pvt. Ltd.' stands disposed of as withdrawn.contd.

In effect, order (s) passed by Ld. Adjudicating Authority appointing 'Interim Resolution Professional', declaring moratorium, freezing of account and all other order (s) passed by Adjudicating Authority pursuant to impugned order and action taken by the 'Resolution Professional', including the advertisement published in the newspaper calling for applications all such orders and actions are declared illegal and are set aside. The application preferred by the Respondent under Section 9 of the 'I&B Code' is dismissed. The Adjudicating Authority will now close the proceeding. The 'Corporate Debtor' is released from all the rigour of law and is allowed to function independently through its Board of Directors from immediate effect.

The appeal is allowed.

[Justice S. J. Mukhopadhaya]
Chairperson

[Kanthi Narahari]
Member (Technical)

ss/sk

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