

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

**Company Appeal (AT) (Insolvency) No. 87 - 89 of 2020**

**IN THE MATTER OF:**

**Deepak Gupta**

**...Appellant**

**Versus**

**Rudra Buildwel Projects Pvt. Ltd.**

**...Respondent**

**Present:**

**For Appellant :            Mr. Sumesh Dhawan and Mr. Gulshan Sachdeva,  
   Advocates**

**O R D E R**

**20.01.2020**        The Appellant –‘Financial Creditor’ has filed an intervention application in the ‘Corporate Insolvency Resolution Process’ of ‘Rudra Buildwell Projects Private Limited’. The order of impleadment has been rejected by the impugned order dated 19<sup>th</sup> November, 2019, which reads as follows:

*“The Corporate Insolvency Resolution Process’ in the present matter has been initiated on 05.11.2019 when CP No. (IB)-1648(PB)/2018 was admitted. The present application has been filed seeking impleadment of the applicant and a request has been made for dismissing the said petition. However, such a course is not permissible in law. Accordingly, the application is not maintainable and the same is dismissed.*

*All other applications are listed for 05.12.2019”*

Having heard the learned counsel for the Appellant, we find that the Appellants have moved an application under Section 7 later on.

The Appellants have moved the petition for review and in absence of any mistake apparent on the face of the record, the review application was also dismissed by the Adjudicating Authority (National Company Law Tribunal), Principal Bench, New Delhi by order dated 3<sup>rd</sup> December, 2019, as follows:

*“No ground for review is made out.*

*Application dismissed.”*

As the Appellant was having no right of intervention, the Review Application was rightly rejected.

The third order dated 5<sup>th</sup> December, 2019 is under challenge whereby the application under Section 7 filed by the Applicant –‘Propertree Real Estate Solutions Pvt. Ltd.’ has been allowed to be withdrawn as the ‘Financial Creditor’ reached settlement with the ‘Promoter’ of the ‘Corporate Debtor’.

The Adjudicating Authority (National Company Law Tribunal), Principal Bench noticed that the ‘Corporate Insolvency Resolution Process’ was initiated on 5<sup>th</sup> November, 2019 and on the same date permitted to reach the settlement with the ‘Financial Creditors’ and in view of the decision of the Hon’ble Supreme Court in ‘**Swiss Ribbons Pvt. Ltd. & Anr**’, - ‘2019 SCC Online SC73’ and in exercise of inherent powers under Rule 11 of the National Company Law Tribunal Rules, 2016, allowed the Resolution Professional to withdraw the application.

Now, the learned counsel for the Appellant submits that the Appellant had filed an application under Section 7 of the ‘I&B Code’ on 3<sup>rd</sup> December, 2019, which is pending. However, we are not inclined to interfere on such ground for withdrawal of application under Section 7 of the ‘I&B Code’.

However, we make it clear that the order of the Adjudicating Authority passed on 5<sup>th</sup> December, 2019 or any other earlier orders passed by the Adjudicating Authority will not come in the way of the Appellant or the 'Corporate Debtor' when the Adjudicating Authority will consider the application on the merit in accordance with law.

The appeal stands disposed of with aforesaid observations.

[Justice S.J. Mukhopadhaya]  
Chairperson

[ Justice Bansi Lal Bhat ]  
Member (Judicial)

/ns/sk/