

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 978 of 2019

IN THE MATTER OF:

Vanita Panday

...Appellant

Vs.

Vee Kay Electricals & Anr.

...Respondents

Present: For Appellant: - Mr. Gaurav Kejriwal, Advocate.

For Respondents: - Mr. Puneet Kansal, Mr. Nikhita Kansal, Advocate for R-1.

Mr. Amish Tandon and Mr. Akshay Joshi, Advocates.

O R D E R

24.10.2019— ‘Vee Kay Electricals’- (‘Operational Creditor’) (1st Respondent herein) filed an application under Section 9 of the Insolvency and Bankruptcy Code, 2016 (“I&B Code” for short) for initiation of the ‘Corporate Insolvency Resolution Process’ against ‘Ubitech Pvt. Ltd.’- (‘Corporate Debtor’) which has been admitted by the Adjudicating Authority (National Company Law Tribunal), Chandigarh Bench, Chandigarh on 13th September, 2019. The said order is under challenge in this appeal.

2. Earlier when the matter was taken up, learned counsel for the Appellant submitted that the ‘Committee of Creditors’ has not been constituted and the Appellant is ready to pay the claim amount after deducting the TDS to the ‘Operational Creditor’. Such proposal was accepted by the learned counsel for the 1st Respondent.

Contd/-.....

3. Today, learned counsel for the Appellant handed over Demand Draft Nos. 737653, 737654, 737655, 737656 & 737657 all dated 19th October, 2019 for Rs.39,88,480/- after deducting TDS to the learned counsel for the 1st Respondent for onward transmission. The TDS certificates have also been handed over.

4. Mr. Amish Tandon, learned counsel for the 'Interim Resolution Professional' appears along with Ms. Pooja Trikha, the 'Interim Resolution Professional' informed that the 'Interim Resolution Professional' has functioned for a month and already incurred expenses of Rs.1,95,000/-. In the facts and circumstances, we have assessed the total fee and cost of the 'Corporate Insolvency Resolution Professional' at Rs.3,00,000/- in lump sum, as agreed by Ms. Pooja Trikha.

5. Mr. Puneet Kansal, learned counsel appearing on behalf of the 'Operational Creditor' (1st Respondent) has agreed to pay the said amount to the 'Interim Resolution Professional' after adjusting a sum of Rs.2,00,000/- which has been paid in advance. The 'Operational Creditor'- 1st Respondent agreed to pay the rest of the amount of Rs.1,00,000/- to Ms. Pooja Trikha within 15 days.

6. In view of the fact that the parties have settled the matter and the 'Committee of Creditors' has not been constituted, in exercise of the powers conferred under Rule 11 of the NCLAT Rules, 2016, we set aside

the impugned order dated 13th September, 2019 and dispose of the application under Section 9 filed by 1st Respondent as withdrawn. The Adjudicating Authority will now close the said proceeding.

However, we make it clear that the order passed in this appeal will not affect the rights and contention of the Appellant in other matters.

7. The 'Corporate Debtor' is released from all the rigours of the 'Corporate Insolvency Resolution Process'. The 'Interim Resolution Professional' will hand over the assets and records to the Promoters. The 1st Respondent is directed to pay a sum of Rs.1,00,000/- to the 'Interim Resolution Professional' within 15 days.

The appeal is allowed with aforesaid observations and directions.

No costs.

(Justice S.J. Mukhopadhaya)
Chairperson

(Justice Venugopal M)
Member(Judicial)

(Justice Jarat Kumar Jain)
Member(Judicial)

Ar/g