

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 389 of 2019

IN THE MATTER OF:

Rajesh Arora

...Appellant

Versus

Barumal Vinod Kumar & Anr.

...Respondents

Present:

For Appellant :

**Mr. Gaurav Mitra and Mr. Iggu Chittiappa,
Advocates**

For Respondents:

**Ms. Prachi Johri, Advocate for Respondent No. 1
Mr. Ashish Mahija and Mr. Anurag Bhatt, Advocates
for Respondent No. 2**

ORDER

14.05.2019 This appeal has been preferred by 'Mr. Rajesh Arora', Shareholder of 'M/s. Amira Pure Foods Pvt. Ltd.' against order dated 11th December, 2018 passed by the Adjudicating Authority (National Company Law Tribunal), New Delhi Bench which admitted the application under Section 9 of the 'Insolvency and Bankruptcy Code, 2016 (for short, the '**I&B Code**') filed by 'Mr. Barumal Vinod Kumar' ('Operational Creditor')

2. The main plea taken is that prior to the admission of the application under 9 of the I&B Code, the parties had reached the settlement on 10th December, 2018.

3. Learned counsel appearing on behalf of the 'Resolution Professional' submitted that the 'Settlement Agreement' is afterthought and fraudulently reached between the parties. It is submitted that even later the claim has been filed by the 'Operational Creditor' before the 'Resolution Professional', which is dated 25th December, 2018. According to him, if such settlement has been arrived, there was no occasion for the 'Operational Creditor' to file claim pursuant to the notice published in the newspaper. It is further submitted that

the 'Committee of Creditors' have been constituted and there are other claimants and the total claimed amount is Rs.1832 Crores.

4. Learned counsel appearing on behalf of the 'Operational Creditor' submits that the parties settled the matter on 10th December, 2018 but adds that subsequently the amount was not paid. It is further submitted that the agreement was never honoured, which is the reason the 'Operational Creditor' file a claim with 'Resolution Professional'.

5. We have heard the learned counsel for the parties and perused the so called 'Settlement Agreement' dated 10th December, 2018, which is on plain paper and does not have date at the foot nor has the date of verification below the signatures. In absence of such dates below the signatures and being on plain paper and the fact that it was not brought to the notice of the Adjudicating Authority by either of the parties and the 'Operational Creditor' filed claim subsequently dated 25th December, 2018, we are not inclined to exercise our inherent power under Rule 11 of the 'National Company Law Appellate Tribunal Rules, 2016' and not inclined to allow the 'Operational Creditor' to withdraw the application under Section 9 of the I&B Code. The appeal is accordingly dismissed. No costs.

[Justice S.J. Mukhopadhaya]
Chairperson

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

[Kanthi Narahari]
Member (Technical)

/ns/gc