

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Ins) No.774 of 2019

IN THE MATTER OF:

Ish Anand

...Appellant

Versus

Northern Freight Carriers & Anr.

...Respondents

Present:

For Appellant:

Shri Uttam Datt, Ms. Sonakshi Singh and Shri Rajat Sharma, Advocates

For Respondents:

**Shri Sumit Gupta, Advocate (Respondent No.1)
Shri Prabhat Ranjan Singh, IRP (Respondent No.2)**

O R D E R

05.08.2019 The Interim Resolution Professional (IRP) states that he has filed Affidavit. He states that Committee of Creditors (COC) has not been constituted. It is further stated that no other claims have been received. Counsel for the Appellant and Counsel for Operational Creditor both state that the matter between the parties is already settled. Advocate Shri Sumit Gupta is present on behalf of Respondent No.1 – Operational Creditor and states that the partner of Operational Creditor namely, Shri Shyam Sunder Garg is also present in the Court. The Operational Creditor states that the Affidavit has been filed vide Diary No.13615 and admits the contents. Counsel for Appellant states that he has already handed over draft of HDFC Bank in favour of Respondent No.1 of the

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value of Rs.37,15,584/- having No.061550. This statement is accepted as correct by Advocate Shri Sumit Gupta on behalf of Respondent No.1 and the partner of Respondent No.1 also states that he has received the Bank Draft.

2. The Counsel for Respondent states that the Respondent wants to withdraw the Application which is filed before the Adjudicating Authority (NCLT, New Delhi Bench, Court - III) and which has been admitted on 18.07.2019.

3. The IRP is present and states that he has already received his fees and expenses which are to the extent of Rs.2,19,409/- and nothing is due. Recorded.

4. The contents of the Affidavit filed by Respondent No.1 are as under:-

“I, Shyam Sunder Garg, son of Late Shri Harichand Garg aged about 70 years resident of 378, SFS Phase – IV, Ashok Vihar, Delhi – 110052 do hereby solemnly affirm and declare as under:

1. That I am a partner in M/S Northern Freight Carriers (Delhi), Respondent No.1 in the present appeal. I am authorised to depose this affidavit on behalf of the Respondent No.1.
2. Respondent No.1 has reached a settlement with the Appellant whereby the Respondent No.2 shall pay a sum of Rs.37,15,584/- (Rupees Thirty seven lakhs fifteen thousand five hundred and eighty four only) (“**Settlement Amount**”) to the Respondent No.1 in full and final settlement of all its claim claimed in the petition under Section 9 of IBC, in which impugned order has been passed.
3. Appellant shall pay the said Settlement Amount by way of a demand draft dated 29.07.2019 for a

sum of Rs 37,15,584/- drawn on HDFC bank to the Respondent No.1 before Hon'ble NCLAT in the present appeal, and upon the receipt of the Settlement Amount, the Respondent No 1 shall unconditionally withdraw its Section 9 petition registered as Company Petition (IB) 1074 (ND) 2018 titled as M/S Northern Freight Carriers (Delhi) Vs Super Flooring Pvt Ltd.

4. With the receipt of the Settlement Amount the Respondent No.1 shall have no claim whatsoever against the Respondent No.2 or any of its Directors or shareholders.”

5. In view of the above compromise between the parties, as the matter is settled, we permit the Respondent No.1 - Northern Freight Carriers to withdraw the Application as COC was yet not constituted and the parties have settled the dispute. The settlement as appearing from the Affidavit shall be binding on parties, including their Partners/Directors, shareholders, etc.

6. In the result, order (s) passed by Ld. Adjudicating Authority appointing 'Interim Resolution Professional', declaring moratorium and all other order (s) passed by Adjudicating Authority pursuant to impugned order and action taken by the 'Resolution Professional' are set aside. The application preferred by the Operational Creditor - Respondent – Northern Freight Carriers & Anr. under Section 9 of the I&B Code is disposed of as withdrawn. The Adjudicating Authority will now close the proceeding. The 'Corporate Debtor' (Company) is released from all the rigour of law and is allowed to function independently through its Board of Directors from immediate effect.

7. The appeal is allowed with aforesaid observations and directions. No costs.

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

[Kanthi Narahari]
Member (Technical)

/rs/gc