

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 618 of 2019

IN THE MATTER OF:

Mr. G.R.K. Reddy

...Appellant

Versus

ICICI Bank Limited & Ors.

...Respondents

Present:

For Appellant : **Mr. Nithink Chowdary Pavuluri, Advocate**

For 1st Respondent: **Mr. D. Srinivasan and Ms. Madhusmita Bora,
Advocates**

For 2nd Respondent : **Mr. K Moorthy, Advocate
and Mr. R.K. Vasudevan, Resolution Professional
Mr. B. Ramana Kumar
Mr. Shambo Nandy, Advocate for 'SREI Equipment
Finance Limited'**

O R D E R

30.09.2019 'ICICI Bank Limited' (Financial Creditor) filed an application under Section 7 of the 'Insolvency and Bankruptcy Code, 2016 (for short, 'the I&B Code') for initiation of 'Corporate Insolvency Resolution Process' against M/s. Marg Limited (Corporate Debtor). The Adjudicating Authority (National Company Law Tribunal), Division Bench, Chennai by impugned order dated 28th May, 2019 admitted the application. The Appellant – 'Promoter' of the 'Corporate Debtor' has preferred the appeal challenging the order of admission on one of the ground that the rules of natural justice was violated as no adequate opportunity was given to the 'Corporate Debtor'. However, the record suggests that two counsel(s) appeared on behalf of the 'Corporate Debtor' and

submissions were made on behalf of the 'Corporate Debtor' was noticed by the Adjudicating Authority.

2. Earlier, when the matter was taken up, learned counsel appearing on behalf of the Appellant-Promoter of the 'Corporate Debtor' submitted that the Appellant has settled the matter in terms of Section 12A of the 'I&B Code'. Today, it is informed that the 'Committee of Creditors' by majority voting share of 95.96% has approved the 'Terms of Settlement' made under Section 12A of the 'I&B Code'.

3. Mr. D. Srinivasan, learned counsel appearing on behalf of the 'ICICI Bank Limited' (Financial Creditor) accepts that by majority voting share of 95.96%, the 'Committee of Creditors' has approved the 'Terms of Settlement' under Section 12A. Therefore, the 'ICICI Bank Limited' has moved the application before the Adjudicating Authority for withdrawal of application filed under Section 7 of the 'I&B Code'.

4. Mr. K. Moorthy, learned counsel and Mr. K. Vasudevan, the Resolution Professional, who is also present in the Court submits that the 'Terms of Settlement' under Section 12A has also taken care of fees of the 'Resolution Professional' and the resolution cost, so he has no objection.

5. Mr. Shambo Nandy, Advocate has filed an application for intervention on behalf of one of the 'Financial Creditor' – 'SREI Equipment Finance Limited' of the 'Corporate Debtor'. Mr. Ashwini Kumar Matta, Senior Advocate along with Ms. Sonakshi Dhiman, Advocate submits that they want to intervene on behalf of 'M/s. Phoenix ARC Limited', another Financial Creditor of the 'Corporate Debtor'. According to them, their claims have not been sufficiently redressed by the Applicant/Promoter.

6. Having heard the learned counsel for the parties and taking into consideration the fact that the 'Terms of Settlement' proposed by the 'Promoters' under Section 12A has been accepted by majority voting of 95.96% of the 'Committee of Creditors', we are not deciding the appeal on merit but allow the prayer made by 'ICICI Bank Limited' (Applicant of Section 7 of the I&B Code) to withdraw the petition filed under Section 7 of the I&B Code.

7. In the result, the impugned order dated 28th May, 2019 for initiating the 'Corporate Insolvency Resolution Process' is set aside along with consequential steps taken. The application under Section 7 filed by the 'ICICI Bank' is disposed of as withdrawn.

8. The 'Corporate Debtor' is released from all rigour of law. The 'Resolution Professional will hand over the assets and documents to the 'Corporate Debtor' through 'Promoter'

9. The 'Corporate Debtor' is directed to pay the stakeholders/creditors in terms of settlement reached under Section 12A within the period as approved by the 'Committee of Creditors failing which it will be open to the 'ICICI Bank' to file application for recall of this order and revival of 'Corporate Insolvency Resolution Process' against the 'Corporate Debtor'.

10. The 'Resolution Professional' will be entitled for fees as per terms of settlement under section 12A.

11. 'SREI Equipment Finance Limited' and 'M/s. Phoenix ARC Limited' who have intervened, their counsel have taken plea that their claims as 'Financial Creditors' have not been taken care in terms of settlement under Section 12A.

We allow 'SREI Equipment Finance Limited' and 'M/s. Phoenix ARC Limited' to negotiate the matter with the 'Corporate Debtor' independently who on collating the claims will grant them the same treatment as given to the other similarly situated 'Financial Creditors' and pay within 2 months from the date they will move before the 'Corporate Debtor', failing which it will be open to these 'Financial Creditors' to move before the appropriate authority/court of law for appropriate orders.

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

[Justice S.J. Mukhopadhaya]
Chairperson

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

[Kanthi Narahari]
Member (Technical)

/ns/gc