

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

I.A. No. 3442 of 2019 in
Company Appeal (AT) (Ins) No. 1041 of 2019

IN THE MATTER OF:

Sanjiv Kumar Tulsian

Appellant

Vs.

Contemporary Brokers Pvt. Ltd. & Anr.

....Respondents

Present:

For Appellant: Mr. Ashish Choudhury, Advocate

**For Respondents: Mr. Arjun Asthana, Ms. Shivani Kachhawana,
Advocates for IRP**

Ms. Reveena Rai, Advocate for R-1.

ORDER

13.11.2019: 'Contemporary Brokers Pvt. Ltd.' (Financial Creditor) filed an application under Section 7 of the Insolvency & Bankruptcy Code, 2016 (hereinafter referred to as I&B Code) for initiation of 'Corporate Insolvency Resolution Process' against 'Pallorbund Tea Ltd.' (Corporate Debtor). The Adjudicating Authority (National Company Law Tribunal), Kolkata Bench, Kolkata by its order dated 26.09.2019 admitted the application, aggrieved by which present appeal was preferred by the Director/Shareholder of the Corporate Debtor.

Earlier, when the appeal was taken up 'for admission' on 15.10.2019, no one for the appellant raised question relating to the maintainability of the petition under Section 7 of the I&B code on the ground that the Respondent - 'Contemporary Brokers Pvt. Ltd.' does not fall within the meaning of Financial Creditor.

However, it was stated that the Appellant was ready for amicable settlement with the Respondent - 'Contemporary Brokers Pvt. Ltd.'

Counsel for Interim Resolution Professional accepted that the Committee of Creditors was not constituted and, therefore, the matter was adjourned to enable the parties to settle the matter before deciding the issue on merit.

By Interlocutory Application No. 3442 of 2019, the Appellant has brought under record 'Terms of Settlement' dated 01.11.2019. He stated that the parties have reached settlement.

The aforesaid fact is also accepted by Ms. Reveena Rai, Advocate for 1st Respondent- 'Contemporary Brokers Pvt. Ltd.' and Mr. Arjun Asthana, Advocate for Interim Resolution Professional.

In view of the aforesaid development, as the parties have reached settlement before constitution of the 'Committee of Creditors' without going into the merit of the claim, in exercise of powers conferred on us by Rule 11 of the National Company Law Appellate Tribunal Rules, 2016, we accept the 'Terms of Settlement' and set aside the impugned order of admission dated 26.09.2019 passed in C.P. (IB) No. 1190/KB/2018. The Interlocutory Application filed by the Respondent - 'Contemporary Brokers Pvt. Ltd.' stands withdrawn. The Adjudicating Authority will close the proceedings. The Interim Resolution Professional will hand over the records and assets of the Corporate Debtor to the Board of Directors/ Promoters and the Corporate Debtor - 'Pallorbund Tea Ltd.' (Corporate Debtor) is allowed to function through its Board of Directors without any rigour of law and Insolvency Proceedings.

The appeal is allowed with aforesaid observations. No costs. I.A. No. 3442 of 2019 stands disposed of.

[Justice S. J. Mukhopadhaya]
Chairperson

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

[Kanthi Narahari]
Member (Technical)

sa/gc