

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI****Company Appeal (AT) (Insolvency) No. 514 of 2020****IN THE MATTER OF:****Kunal Finance & Credit Pvt. Ltd.****...Appellant****Versus****Mani Square Ltd.****...Respondent****Present:****For Appellant :****Mr. Kunal Tandon, Advocate****For Respondent:****Mr. Pranaya Goyal and Mr. Aman Raj Gandhi,  
Advocates****ORDER**  
**(Through Virtual Mode)**

**08.06.2020** After hearing the learned counsel for the Appellant for a while, we find that the order for admission or rejection of application under Section 7 of the 'Insolvency and Bankruptcy Code, 2016' ('I&B Code', for short) filed at the instance of the Appellant – Financial Creditor is yet to be passed and in terms of the impugned order which is in continuation of an earlier order dated 5<sup>th</sup> November, 2019 directing the 'Corporate Debtor' not to dispose of fixed assets so as to secure the interest of the 'Financial Creditor', the Adjudicating Authority (National Company Law Tribunal), Kolkata Bench modified such order by providing that a specific plan be submitted by the 'Corporate Debtor' before disposal of the property for securing the interest of all stakeholders including the 'Financial Creditor'. It is, therefore, manifest that the Adjudicating Authority, acting at the behest of the 'Corporate Debtor', considered it prudent to defer consideration of admission of application under Section 7 of the 'I&B Code' by

providing opportunity to the 'Corporate Debtor' to submit a plan for satisfying the claim of various stakeholders including the Appellant. It is in this context that the impugned order has to be appreciated which *ex-facie* purports to secure the interest of the creditors by placing an embargo on the exercise of rights by the 'Corporate Debtor' qua disposal of its assets.

Be that as it may, the fact remains that the 'corporate insolvency resolution process' is yet to commence as no order of admission of application under Section 7 of the 'I&B Code' has been passed by the Adjudicating Authority. It is equally true that the application has also not been rejected or triggering of 'corporate insolvency resolution process' has not been declined. Maintainability of instant appeal itself is questionable.

In this fact situation, learned counsel for the Respondent – 'Corporate Debtor' submits that the 'Corporate Debtor' intends to settle the claim of the Appellant – 'Financial Creditor'. Since, the 'corporate insolvency resolution process' has not been commenced, the 'Corporate Debtor' is at liberty to approach the 'Financial Creditor' for settlement and if the settlement is reached, 'Settlement Terms' can be filed before the Adjudicating Authority who may upon recording of the same, close the matter.

We accordingly dispose of the appeal by providing that the Respondent – 'Corporate Debtor' shall be at liberty to file the 'Settlement Terms' within three weeks before the Adjudicating Authority who may close the case upon recording the same. In the event of Respondent – 'Corporate Debtor' failing to file the 'Settlement Terms', the Adjudicating Authority shall accord consideration to the application under Section 7 of the 'I&B Code' and if satisfied, pass an order of admission commencing the 'corporate insolvency resolution process'. We make

it clear that in doing so, the Adjudicating Authority will not be influenced by the impugned order.

The appeal is accordingly dispose off.

A copy of this order be sent to the Adjudicating Authority (National Company Law Tribunal), Kolkata Bench for information.

**[ Justice Bansi Lal Bhat ]  
Acting Chairperson**

**[ Justice Jarat Kumar Jain ]  
Member (Judicial)**

**[ Shreesha Merla ]  
Member (Technical)**

/ns/RR/