

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 537 of 2020

IN THE MATTER OF:

Rahul Gupta

...Appellant

Versus

G Trans Logistics (India) Pvt. Ltd. & Ors.

...Respondents

Present:

For Appellant: Mr. Krishnendu Datta and Mr. Puneet Singh Bindra, Advocates.

For Respondents: Ms. Radhika Rai, Advocate for R-1.

Mr. Paraven Sehrawat, Advocate for R-3 (IRP) with Mr. Hardev Singh, IRP.

O R D E R
(Through Virtual Mode)

11.06.2020: I. A. No. 1389 of 2020 has been moved in this appeal by the Appellant- Director and Shareholder of the Corporate Debtor seeking to place on record the Terms of Settlement Agreement executed between the Appellant and the Respondent – Operational Creditor. Mr. Krishnendu Datta, Sr. Advocate representing the Appellant submits that the claim of Respondent – ‘G Trans Logistics (India) Pvt. Ltd.’ (Operational Creditor) has been settled and in terms of the Settlement Agreement the Corporate Debtor has agreed to pay a sum of Rs.85.00 Lakh as full and final settlement of all claims of the Operational Creditor. Such sum is agreed to be paid in instalments as specified in the Settlement Agreement.

2. Learned counsel for Respondent No. 1 – Operational Creditor, Ms. Radhika Rai when confronted with this Settlement Agreement admitted execution of the Settlement Agreement inter-se the Appellant/Corporate Debtor and the Operational Creditor. She stated that the Operational Creditor is agreeable to the payment of Rs.85.00 Lakhs towards full and final settlement of its claim and resolution of all disputes in the manner and as per mode specified in the Settlement Agreement.

3. Mr. Praveen Sehrawat, Advocate representing the Interim Resolution Professional (Respondent No. 3) submits that the Interim Resolution Professional has issued the public announcement but Committee of Creditors has not been constituted so far. It is further submitted that no claim has been received as of now.

4. In terms of dictum of Hon'ble Apex Court as laid down in '*Swiss Ribbons Pvt. Ltd. & Anr. Vs. Union of India & Ors.*', Writ Petition (Civil) No. 99/2018 (para 52) dated 25th January, 2019 (2019 SCC OnLine SC 73), the exit route from the Corporate Insolvency Resolution Process being available prior to constitution of Committee of Creditors, we find that this is a fit case for exercise of *Rule 11 of National Company Law Appellate Tribunal Rules, 2016* to allow the settlement and to take Settlement Terms on record.

5. We accordingly take the Settlement terms on record and dispose of the appeal in terms of this Settlement Agreement. The impugned order dated 2nd June, 2020 by virtue whereof the application under Section 9 preferred by Respondent No. 1 – Operational Creditor was admitted and Corporate Insolvency Resolution Process was commenced and all actions taken pursuant thereto are set aside. The Adjudicating Authority (National Company Law Tribunal), New Delhi Bench-V is directed to close the case. The Corporate Debtor is released from the rigour of Corporate Insolvency Resolution Process and will function through its Board of Directors. The Interim Resolution Professional will hand over assets and records of the Corporate Debtor, immediately.

6. Mr. Praveen Sehrawat, learned counsel representing the Interim Resolution Professional submits that Interim Resolution Professional has been paid a fee of Rs.50,000/- by the Appellant in advance. However, having regard to the period for which he has worked and also the expenses he has incurred for issuing public announcement, taking other steps during the Corporate Insolvency Resolution Process and engaging a counsel in these appeal proceedings, we deem it appropriate to allow a consolidated amount of Rs.1.50 Lakh inclusive of Rs.50,000 paid as fee in advance. The balance amount of Rs.1.00 Lakh shall be paid by the Appellant within one week to the Interim Resolution Professional.

7. In the event of the Appellant/ Corporate Debtor not adhering to the terms of the Settlement Agreement, as regards the payment in term of mode and schedule agreed upon, it shall be open to the Operational Creditor to approach the Adjudicating Authority for revival/ restoration of the Corporate Insolvency Resolution Process proceedings.

8. This order be communicated to the learned Adjudicating Authority for information and compliance. A certified copy of this order be also provided to the parties today itself.

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

**[Justice Anant Bijay Singh]
Member (Judicial)**

**[Dr. Ashok Kumar Mishra]
Member (Technical)**

am/gc