

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 1497 of 2019

IN THE MATTER OF:

Ashutosh Sinha

...Appellant

Versus

**Pee Aar Automotive Technologies
Pvt. Ltd.& Anr.**

...Respondents

Present:

For Appellant :

**Mr. Sandeep Kapur, Ms. Apoorva Pandey, Mr. G.G.
Kashyap and Mr. Niladree Chatterjee, Advocates**

For Respondent :

Mr. Shubo Jana, Advocate

O R D E R

20.12.2019 In pursuance of an application under Section 9 of the 'Insolvency and Bankruptcy Code, 2016' (**I&B Code**, for short) filed by 'Pee Aar Automotive Private Limited' (Operational Creditor), the Adjudicating Authority, Allahabad Bench by impugned order dated 9th December, 2019 initiated the 'Corporate Insolvency Resolution Process' against 'Lee Electricals Limited' (Corporate Debtor)', which is under challenge.

2. Learned counsel for the Appellant submits that the parties have reached settlement and the 'Committee of Creditors' has not been constituted. It is further stated that the 'Corporate Debtor' is a running company.

3. Mr. Shubo Jana, learned counsel for the Respondent - 'Pee Aar Automotive Technologies Private Limited' (Operational Creditor) submits that immediately after the order of admission, the Appellant approached the Respondent and reached the 'Terms of Settlement' on 13th December, 2019

by which the Appellant agreed to pay Rs.12,61,252/- vide Demand Draft bearing No. 092113 dated 13th December, 2019 drawn on HDFC Bank and Rs.20,00,000/- vide Demand Draft bearing No. 092112 dated 13th December, 2019 drawn on HDFC Bank aggregating to a sum of Rs. 32,61,252/- towards full and final settlement of the total debt of Rs.40,76565/-, as claimed by the Respondent.

4. Mr. Anil Rustgi, 'Interim Resolution Professional' submitted that he has performed his job for about 10 days and agreed to receive a sum of Rs.50,000/- as fees. He further submits that he has incurred travelling expenses of Rs.5,000/- approximately. Further, according to him there are six factories and number of publications are made for which he incurred a cost of Rs.90,000/-. He further submits that he has not received any claim till date.

5. Learned counsel for the Appellant has come with the Demand Drafts (as mentioned above at paragraph 3) and handed over the same to Mr. Shubo Jana, Advocate, who in turn handed over the same to Mr. Vikas Saini, Authorised Representative of the 'Pee Aar Automotive Technologies Private Limited', who is present.

6. Learned counsel for the Appellant also handed over the cheque for Rs.50,000/- to Mr. Anil Rustgi, 'Interim Resolution Professional towards his fee.

7. Taking into consideration the fact that the parties have reached settlement four days after the order of admission and no 'Committee of Creditors' have been constituted, in exercise of powers conferred under Rule

11 of the NCLAT Rules, 2016, we set aside the impugned order of admission dated 9th December, 2019 passed in 'C.P. No. IB-334/ALD/2019' passed by the Adjudicating Authority (National Company Law Tribunal), Allahabad Bench and disposed of the application under Section 9 of the 'I&B Code' preferred by 'Pee Aar Automotive Private Limited' stands as withdrawn. The 'Corporate Debtor' is released from rigour of the 'Corporate Insolvency Resolution Process'. The case is remitted to the Adjudicating Authority (National Company Law Tribunal), Allahabad Bench to determine the actual cost incurred by the 'Interim Resolution Professional' towards publication on the basis of the receipt issued by the publishers of the newspaper. The Appellant has agreed to pay the actual cost to the 'Interim Resolution Professional' as may be determined along with Rs.5,000/- towards travelling cost etc. within 7 days from the date of the order as may be passed by the Adjudicating Authority (National Company Law Tribunal), Allahabad Bench. It is expected that the Adjudicating Authority will pass such order on or before 6th January, 2020.

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

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Venugopal M.]
Member (Judicial)

/ns/gc