

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 615 of 2019

IN THE MATTER OF:

Vishal Gupta Appellant

Vs

M/s Suntech Infra Solutions Pvt. Ltd. & Anr. Respondents

Present:

For Appellant: Mr. Akhilesh, Advocate.

For Respondents: Mr. Saurabh Seth, Advocate for Respondent No.1.

Mr. Ajay Kumar, Interim Resolution Professional.

O R D E R

10.06.2019 M/s Suntech Infra Solutions Pvt. Ltd. ('Operational Creditor') filed an application under Section 9 of the Insolvency and Bankruptcy Code, 2016 (I&B Code) against M/s. Shri Balaji Infradevelopers Pvt. Ltd. ('Corporate Debtor'). The application having admitted by the Adjudicating Authority (National Company Law Tribunal), New Delhi, Bench-II by impugned order dated 27th May, 2019, the present Appeal has been preferred by Vishal Gupta, Director of M/s Shri Balaji Infra Developers Pvt. Ltd.

2. Earlier, when the matter was taken up on 6th June, 2019, learned Counsel appearing on behalf of the Appellant submitted that the Appellant wants to settle dispute and a draft for Rs.33 lakhs payable to the 'Operational

Creditors' is ready. It was further submitted that the 'Interim Resolution Professional' had not constituted the 'Committee of Creditors'. To know the exact position, we issued notice to the 'Interim Resolution Professional'.

3. Counsel for the Appellant has placed on record a copy of settlement dated 7th June, 2019, from which it is clear that a sum of Rs.33 lakhs have been handed over to Respondent – M/s Suntech Infra Solutions Pvt. Ltd. in terms of settlement. The fee of 'Interim Resolution Professional' has also been paid.

4. Mr. Ajay Kumar Jain, 'Interim Resolution Professional' appears in person and submits that the parties have settled the matter and he has received the fees and cost. He further informs that the 'Committee of Creditors' have not been constituted and only one claim received from one of the 'Operational Creditor'.

5. Taking into consideration the aforesaid development that the parties have settled the matter and that the 'Committee of Creditors' have not been constituted, in exercise of powers conferred under Rule 11 of the National Company Law Appellate Tribunal Rules, 2016, we allow the settlement.

6. In effect, order (s) passed by Ld. Adjudicating Authority appointing 'Interim Resolution Professional', declaring moratorium and all other order (s) passed by Adjudicating Authority pursuant to impugned order and action taken by the 'Resolution Professional' are set aside. The application preferred by the Respondent under Section 9 of the I&B Code is disposed of as withdrawn. The Adjudicating Authority will now close the proceeding. The Respondent

Company is released from all the rigour of law and is allowed to function independently through its Board of Directors from immediate effect.

7. 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)

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