

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 1095 of 2019

IN THE MATTER OF:

Panoramic Universal

...Appellant

Vs

Sanitech Engineers & Consultants Pvt. Ltd. & Ors.

....Respondents

Present:

For Appellant: Mr. Prashant S. Kenjale and Mr. Sachin Patil, Advocates.

For Respondents: Mr. Chandrashekhar A. Chakalabbi, Advocate for R-1.

Mr. G. Murali, PCA for IRP.

ORDER

07.01.2020: 'M/s Sanitech Engineers & Consultants Pvt. Ltd.' (Operational Creditor) filed application under Section 9 pursuant to which the Adjudicating Authority (National Company Law Tribunal) Hyderabad Bench, Hyderabad by impugned order dated 30th September, 2019 initiated Corporate Insolvency Resolution Process against 'M/s Sri Vatsa Hotels Pvt. Ltd.' (Corporate Debtor).

2. When the matter was earlier taken up on 22nd October, 2019, learned counsel for the Appellant has submitted that the Appellant is ready to settle the matter with the Respondent – 'M/s Sanitech Engineers & Consultants Pvt. Ltd.' and the Committee of Creditors had not been constituted.

3. Mr. Chandrashekhar, Advocate has appeared on behalf of the Respondent - 'M/s Sanitech Engineers & Consultants Pvt. Ltd.' and accepted that the Terms of Settlement have been reached between the parties.

4. Mr. G. Murali, Practicing Chartered Accountant appeared on behalf of the Interim Resolution Professional and submitted that Committee of Creditors was not constituted on 22nd October, 2019 and there is only one claimant i.e. Respondent – Operational Creditor.

5. Terms of Settlement, as suggested by the parties, reads as follows:-

“1) *The APPELLANT (PANORAMIC UNIVERSAL LTD.) or Sri Vatsa Hotels Pvt Ltd agrees and confirms to pay a total amount of Rs.9,50,000/- (Rupees Nine Lakhs Fifty Thousand) in the following manner:*

(i) *FIRST INSTALLMENT – Rs.3,50,000/- (Rupees Three Lakhs Fifty Thousand) on 06/01/2020 by RTGS/NEFT or Demand Draft in favour of M/s Sanitech Engineers & Consultants Pvt. Ltd.*

(ii) *SECOND INSTALLMENT – Rs.3,00,000/- (Rupees Three Lakhs) on or before 15/01/2020 vide (Post Dated) Cheque issued in favour of M/s Sanitech Engineers & Consultants Pvt. Ltd.*

- (ii) *THIRD INSTALLMENT – Rs.3,00,000/- (Rupees Three Lakhs) on or before 27/01/2020 vide (Post Dated) Cheque issued in favour of M/s Sanitech Engineers & Consultants Pvt. Ltd.*
2. *Additionally APPELLANT (PANORAMIC UNIVERSAL LTD.) or Sri Vatsa Hotels Pvt Ltd has also agreed to pay the following amounts:*
- (i) *Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand) payable towards the fees of the Interim Resolution Professional (IRP);*
- (ii) *Rs.50,000/- (Rupees Fifty Thousand) payable towards publication charges to the Interim Resolution Professional (IRP).*
- 3) *In the event of any default in payment of the amounts as agreed above, the Respondent/ Operational Creditor (M/s Sanitech Engineers & Consultants Pvt Ltd) shall be at liberty reinitiate fresh proceedings under the Insolvency & Bankruptcy Code.”*

6. Learned counsel for 1st Respondent submits that First Instalment of Rs.3,50,000/- has already been paid but no post-dated cheques with regard to Second and Third Instalments have been handed over. It is intimated that out of total amount received by the 1st Respondent- 'M/s Sanitech Engineers & Consultants Pvt. Ltd.', it will pay the Interim Resolution Professional Rs.3 Lakhs.

7. Learned counsel for the Appellant submits that Appellant will pay a sum of Rs.3 Lakhs in total to the Interim Resolution Professional which includes cost of Rs.1.25 Lakhs incurred by her towards publication.

8. We direct the Appellant to pay a sum of Rs.3.5 Lakhs to the Interim Resolution Professional, she having incurred Rs.1.25 Lakhs towards the costs, within two weeks.

9. In view of Terms of Agreement, as reached between the parties, we in exercise of power conferred under Rule 11 of NCLAT Rules, 2016 set aside the impugned order dated 30th September, 2019 passed by the Adjudicating Authority and dispose of the application under Section 9 filed by the 1st Respondent - 'M/s Sanitech Engineers & Consultants Pvt. Ltd.', as withdrawn. Terms of Settlement as suggested and recorded above should be treated as directions of this Appellate Tribunal and complied, failing which this

order shall stand recalled and Corporate Insolvency Resolution Process will continue. The Appellant Corporate Debtor will pay rest of the amount from total amount of Rs.3.5 Lakhs, as ordered above, after adjusting Rs.1 Lakh already paid to the Interim Resolution Professional. The appeal stands disposed of with aforesaid observations and actions. No costs.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

am/gc