

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI
Company Appeal(AT)(Insolvency) No. 318 of 2018

IN THE MATTER OF:

Tiger Steel Engineering (India) Pvt. Limited **...Appellant**

Vs

Batliboi Impex Limited **....Respondent**

Present:

For Appellant: **Mr. Arun Katpalia, Senior Advocate with Mr. Charu Sangwan, Mr. Himanshu Dubey and Mr. Namit Suri, Advocates.**

For Respondent: **Mr. Arvind Kumar Gupta, and Ms. Megha, Advocates.**

ORDER

25.06.2018 Learned Senior Counsel for the Appellant is allowed time to file petition for substitution for impleadment of one of the Directors/ shareholders as appellant in place of the ‘Corporate Debtor’ and to transpose the ‘Corporate Debtor’- “Tiger Steel Engineering (India) Pvt. Ltd.” as 2nd Respondent.

2. The main plea taken by the Appellant is that the impugned order dated 18.05.2018 passed under Section 9 of ‘Insolvency and Bankruptcy Code, 2016’ admitting the application has been passed by the Adjudicating Authority – (National Company Law Tribunal), Mumbai Bench, has been passed without hearing the ‘Corporate Debtor’, who intended to settle the dispute. According to learned Senior Counsel appearing on behalf of the Appellant, the impugned order has been passed in violation of principle of Natural Justice and decision of this Appellate Tribunal in “***Innoventive Industries Ltd. Vs. ICICI Bank***”. Learned

Senior Counsel further submits that two drafts have already been prepared and handed over to the learned Counsel for the Respondent which are approximately worth Rs. 28.69 lakhs and the third draft, as per agreement, will be handed over before the next date.

3. Mr. Arvind Kumar Gupta, learned Counsel appearing on behalf of Respondent submits that if total amount of Rs. 33 lakhs is paid in favour of the Respondent, he has no objection if the Resolution Process is closed.

4. Taking into consideration the nature of the case and as a prima facie case has been made that the impugned order was passed out without hearing the 'Corporate Debtor' and the parties intended to settle the dispute, we allow the learned Senior Counsel for the Appellant to file petition for substitution, as ordered above, and allow the parties to settle the claims. Post the matter 'for orders' on **29th June, 2018**.

5. Until further order, the Adjudicating Authority or the Interim Resolution Professional will not come out with any advertisement, if not yet issued.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice A.I.S. Cheema]
Member (Judicial)

Akc/nn