

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 148 of 2019

IN THE MATTER OF:

Sham Lal

...Appellant

Vs

Ramboll India Pvt. Ltd.

....Respondent

Present:

**For Appellant: Ms. Anusuya Salwan and Mr. Ayush Srivastava,
Advocates.**

For Respondent: Mr. Prabodh Jain, Advocate.

O R D E R

14.02.2019: Learned counsel for the Appellant submits that the Adjudicating Authority while passing the impugned order admitting the application of Respondent – Operational Creditor under Section 9 of the I&B Code failed to notice the ‘full and final settlement’ dated 28th December, 2015 in terms whereof an amount of Rs.28,49,168/- was paid to the Operational Creditor for all works including for follow up and balance services as also the certificate issued by the Operational Creditor by virtue whereof it was agreed not to raise any further claim at any level. It is further contended by learned counsel for the Appellant that the four invoices raised by the Respondent – Operational Creditor relate to the follow up work in respect whereof payment has been already made in terms of the ‘full and final settlement’.

Issue notice upon Respondent. Mr. Prabodh Jain, Advocate appears on behalf of the Operational Creditor. Learned counsel for the Appellant will provide a copy of paper book to learned counsel for the Respondent.

At this stage it was noticed that the Appellant has not arrayed the Corporate Debtor as party respondent. The Appellant is accordingly directed to array the Corporate Debtor through Interim Resolution Professional as party

Respondent No. 2. This be done by tomorrow. In the event of Corporate Debtor being arrayed as Respondent No. 2, let notice be issued upon it by Speed Post. Requisites alongwith process fee, be filed by 18th February, 2019. If the Appellant provides email address of Respondent No. 2, let notice be also served through email.

Post the case 'for admission' on **13th March, 2019**.

Learned counsel for the Appellant submits that the Appellant is prepared to settle the matter with the Respondent – Operational Creditor. Since Interim Resolution Professional is stated to have been issued public announcement, it is directed that in the event of Committee of Creditors not being constituted as on date, it shall not be constituted till next date of hearing.

In the meantime, the 'Interim Resolution Professional' will ensure that the company remains going concern and will take assistance of the (suspended) Board of Directors. The persons who are working will perform their duties including the paid Directors. The person who is authorised to sign the bank cheques may issue cheques only after authorisation of the 'Interim Resolution Professional'. The bank account(s) of the 'Corporate Debtor' be allowed to be operated for day-to-day functioning of the company such as for payment of current bills of the suppliers, salaries and wages of the employees'/workmen, electricity bills etc.

[Justice Bansilal Bhat]
Member (Judicial)

am/sk

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