

NATIONAL COMPANY LAW APPELLATE TRIBUNAL. PRINCIPAL BENCH,

NEW DELHI

Company Appeal (AT) (Insolvency) No. 727 of 2022

IN THE MATTER OF:

Mrs. Radha Prakash

...Appellant

Versus

Bhadani Financers Pvt. Ltd.

...Respondent

Present:

For Appellant : Mr. Krishnendu Datta, Sr. Adv. with Mr. Kirit S. Javali, Ms. Varsha Himatsingka, Advocates

For Respondent : Mr. Manish Jain, Mr. Harshit Gupta, Advocates

O R D E R

14.03.2023: This appeal is preferred by an ex-director of the Corporate Debtor against the order of admission dated 09.06.2022, passed by the Adjudicating Authority (National Company Law Tribunal, New Delhi, Bench-V) on an application filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 (In short 'Code') by the Financial Creditor (Bhadani Financers Pvt. Ltd.).

2. At the time of preliminary hearing held on 06.07.2022, the following order was passed: -

Learned Counsel for the Appellant submits that the Appellant is ready to deposit the Demand Draft of Rupees One Crore drawn in the name of "The Pay and Accounts Officer, Ministry of Corporate Affairs, New Delhi within two weeks. It is further submitted that the Appellant has also sent a proposal for settlement to the Respondent which is under consideration.

2. Issue notice to the Respondent. Let the requisites together with process fee be filed within three days from today. The Appellant is required to provide the e-mail address of the Respondent and in that mode also, the service can be effected. The Appellant is also required

to furnish the Mobile No. of the Respondent to the 'Office of the Registry'. Reply be filed within two weeks. Rejoinder, if any, may be filed before the date fixed.

3. List the Appeal on 16.08.2022.

In the meantime, subject to deposit of the aforesaid amount within two weeks, Committee of Creditors (CoC) shall not be constituted by the IRP.

3. Thereafter, the case was adjourned with interim order to continue for the purpose of final settlement.

4. Both Counsel for the parties have apprised us that the settlement has been arrived at Rs. 1.21 Crore out of which Rs. 1 Crore is already lying deposited in terms of the order dated 06.07.2022. A Demand Draft No. 511185 of Rs. 10 Lakh is handed over by the Appellant to the Counsel for the Respondent in court today. The remaining amount of Rs. 11 Lakh is undertaken to be paid within four weeks from today by way of a demand draft.

5. In this manner, the matter shall be settled finally between the parties in regard to the alleged debt.

6. At this stage, Counsel for the Respondent (Financial Creditor) has submitted that the amount of Rs. 1 Crore which is laying deposited with 'the Pay and Accounts Officer, Ministry of Corporate Affairs, New Delhi' may also be paid to them by directing the said authority to issue a cheque of the amount of Rs. 1 Crore in favour of the Financial Creditor within a period of 15 days from the date of receipt of the certified copy of this order and the cheque shall be issued and handed over to Mr. Shailendra Singh after verifying his identity. We order accordingly.

7. It has been agreed between the parties that in case the rest of the amount, as undertaken, is not paid within the prescribed period, not only the

present appeal shall be dismissed automatically but also the impugned order shall be revived.

8. In view of the aforesaid facts and circumstances, the present appeal is thus allowed. The impugned order is set aside and the Corporate Debtor is set free from the rigours of CIRP and Moratorium. However, it is made clear that if rest of the amount i.e. Rs. 11 Lakh is not paid within the prescribed period, the present Appeal shall be deemed to have been dismissed, the impugned order shall revive and the OTS shall also be automatically cancelled.

[Justice Rakesh Kumar Jain]
Member (Judicial)

[Mr. Naresh Salecha]
Member (Technical)

sc/rr