

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Company Appeal (AT) (Insolvency) No. 726 of 2022

IN THE MATTER OF:

**Pramod Kumar Chaubey,
Suspended Director of Corporate Debtor Schneider
Prototyping (India) Pvt. Ltd.**

...Appellant

Versus

**Guangzhou Seal Laser Rapid Prototype Co. Ltd. &
Anr.**

...Respondents

Present:

For Appellant: Mr. Nalin Kohli, Mr. Ribhu Garg, Mr. Saurajay Nanda, Ms. Nimisha Menon and Ms. Lovina Ropia, Advocates

For Respondent: Ms. Apoorv D. Tripathi, Ms. Nidhi Mohan Parashara, Mr. Rajat Sharma, Mr. Kartikeya Sharma, Advocates in I.A. No. 2278 of 2022.
Proxy Council-Spriha Bhattacharya, Partho Bhattacharya, for IRP, Respondent No. 2.
Mr. Krishnendu Datta, Sr. Advocate Ms. Anjali Sharma, Mr. Deepak Bashta, Ms. Mehak Khurana, Mr. Pavan Gaur, Advocates for R-1.

ORDER

05.08.2022: Heard Learned Counsel for the Appellant and Learned Counsel for the Operational Creditor.

2. This Appeal has been filed against the Order dated 20th June, 2022 by which Order Application filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 (IBC in short) by the Respondent has been admitted and Interim Resolution Professional has been appointed.

3. Aggrieved by the said Order, this Appeal has been filed. An I.A. No. 2643 of 2022 has been filed by the Appellant and the Respondent through the IRP where it is stated that the Operational Creditor has settled its disputes and

has received the payment of US\$ 112909. Learned counsel for the Appellant submits that IRP's fees and expenses has already been paid and if any balance amount is there, that shall also be paid.

4. Two I.As bearing I.A. No. 2277 of 2022 and I.A. No. 2278 of 2022 have been filed seeking intervention in this Appeal, claiming that this settlement be not allowed by this Tribunal and insolvency against the Appellant be allowed to continue. It is submitted that the Section 9 Application have already been filed by the employees claiming their dues against the Company which are pending consideration before the Adjudicating Authority since last four years. Mr. Krishnendu Datta, Sr. Advocate appearing for the Intervener submits that net worth of Appellant has eroded and it is reflected from the balance sheet of the Corporate Debtor. He has referred to profit and loss account in the balance sheet and submits that insolvency be allowed to be continued.

5. We have heard Learned Counsel for the parties including Learned Counsel appearing for the interveners.

6. Present is the case where after admission of Section 9 Application this Tribunal while entertaining the Appeal passed an interim Order staying the constitution of the Committee of Creditors in pursuance of the Impugned Order dated 20th June, 2022. The CoC resultantly has not yet been constituted. By further Orders passed on 19th July, 2022 and 27th July, 2022 direction was issued to the IRP not to proceed any further.

7. Interveners have claimed that their dues also be paid before any settlement is recorded. The Learned Counsel for the Appellant submits that *Company Appeal (AT) (Insolvency) No. 726/2022*

the employees claim are seriously disputed and criminal cases have already been initiated against each other which are under consideration before the Court and dues are not admitted to the Appellant. The claim of the Appellants are denied by the Interveners.

8. We are of the view that since Section 9 Application has already been filed by the employees where their dues are claimed which is yet to be considered, it is not necessary for us to enter into any issue with regard to the claims raised in Section 9 Application. It is open for the Applicant or other claimants in those Applications/proceedings to pursue their claim in accordance with law.

9. We further are of the view that in view of the settlement between the parties and the entire payment to the Operational Creditor, the Operational Creditor is permitted to withdraw Section 9 Application consequently the Order impugned dated 20th June, 2022 stands withdrawn.

The Appeal is disposed of, accordingly.

[Justice Ashok Bhushan]
Chairperson

[Justice M. Satyanarayana Murthy]
Member (Judicial)

[Mr. Barun Mitra]
Member (Technical)