

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, CHENNAI

(APPELLATE JURISDICTION)

Company Appeal (AT) (CH) (Ins) No.47 of 2021

(Under Section 61 of the Insolvency and Bankruptcy Code, 2016)

**[Appeal arising out of the Impugned Order dated 21.04.2021, passed in IBA/1359/2019]
by the Adjudicating Authority (National Company Law Tribunal, Division Bench-II,
Chennai]**

In the matter of:

M/s. Real Link Engineering (India) Pvt. Ltd.
Rep. by its Director Mr.Navaneethakrishnan
F.No.402/2A, 2B, 2C, 2D & 412,
Appanaickenpattai Village,
Sulur Taluk,
Coimbatore – 641 402

... Appellant

V

M/s.Marikko Industrial Chemicals,
Door No.161/452, Mariamman Koil Street,
Papanaiickenpalayam,
Coimbatore – 641 402

... Respondent

Present:

For Appellant : Mr.R. Rajesh, Advocate

.....

J U D G M E N T

1. According to the Learned Counsel for the ‘Appellant’/‘Corporate Debtor’, the ‘Respondent’/‘Operational Creditor’ filed IBA/1359/2019 (under Section 9 of the I & B Code, 2016) before the ‘Adjudicating Authority’/ National Company Law Tribunal, Division Bench-II, Chennai and the same was admitted as per Section 9(5) of the Code on 21.04.2021.

2. The Learned Counsel for the Appellant brings to the Notice of this ‘Tribunal’ that the Settlement was arrived at by the ‘Appellant’/‘Corporate Debtor’ and that the ‘Compromise Memo’ dated 04.05.2021 and 11.05.2021 were entered into between the parties. Also, it is the Stand of the ‘Appellant’/ ‘Corporate Debtor’ that the ‘Respondent’/‘Operational Creditor’ had authorised the ‘Interim Resolution Professional’ to file the ‘Application For Withdrawal of

Corporate Insolvency Resolution Process’ on 12.05.2021 and FORM FA was submitted before the ‘Adjudicating Authority’.

3. It is to be pointed out that Section 12-A of the I & B Code, 2016 provides for ‘Withdrawal of Application admitted under Section 7, 9 or 10’. In reality, as per Regulation 30-A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the ‘Withdrawal Application’ ought to be submitted to the ‘Interim Resolution Professional’ as the case may be in FORM FA of the Schedule etc.

4. In view of the fact that the ‘Appellant’ and the ‘Respondent’ had amicably settled the dispute between them and that the ‘Compromise Memos’ dated 04.05.2021 and 11.05.2021 respectively were entered into, at this stage, the Learned Counsel for the Appellant/Corporate Debtor seeks permission to withdraw the instant Company Appeal and acceding to his request, this ‘Tribunal’ dismisses the ‘instant Company Appeal’ (AT) (INS) No.47 of 2021 as withdrawn. No Costs. Consequently, the IA No.104/2021 and 105/2021 are closed.

5. Before parting with the case, this ‘Tribunal’ directs the ‘Adjudicating Authority’ National Company Law Tribunal, Division Bench-II, Chennai to take up the ‘Withdrawal Application’ i.e. IA (IBC)/502(7)/2021 (filed through Interim Resolution Professional) in Company Petition IB(IBC)/1359(CHE)/2019 and to dispose of the same on merits, as expeditiously as possible, of course by adhering to the lawful procedure enshrined under the I & B Code and Insolvency and the Bankruptcy Board of India (Insolvency Resolution Process For Corporate Persons) Regulations, 2016.

*[Justice Venugopal M]
Member (Judicial)*

*[Balvinder Singh]
Member (Technical)*

*08.06.2021
SE*