National Company Law Appellate Tribunal, New Delhi
Principal Bench
Company Appeal (AT) (Ins) No. 360 of 2021

IN THE MATTER OF:
Pradeep Jain **...Appellant**

Vs.

State Bank of India & Anr. **...Respondents**
Present:

For Appellant:	**Shri Narendera Sharma, Shri Vikas Mehta, Shri Ankur Sood, Shri Adith Nair and Shri Siddhanth Jain, Shri Anindita Saha, Advocates** **Shri Pradeep Jain, Party in person**
For Respondent:	**Shri Abhishek Anand, Shri Viren Sharm Advocates for R2, RP** **Shri Vibhor Mathur, Advocates for R1, SBI**

ORDER

(Through Virtual Mode)

01.07.2021: Ld. Counsel for the Appellant submits that all the six Financial Creditors have accepted the proposal of the Corporate Debtor Company. The Financial Creditors want that the Board of Directors of the Company may pass a resolution and authorized person sign and accept the settlement agreement. He submits that as the Board is suspended, therefore, Board cannot convene meeting unless the impugned order is set aside with the liberty that in case, the settlement does not implement, the Appellant is at liberty to file the Application for revival of this Appeal.

Ld. Counsel for the Respondent No. 1 submits that the guarantors should have also filed the guarantee to ensure the implementation of the settlement.

Ld. Counsel for the Appellants submits that the Guarantors have already given their consent to the Directors of the Corporate Debtor Company

Ld. Counsel for the IRP submits that it may be clarified that the CIRP Costs will be borne by the Corporate Debtor Company.

We have considered the submissions of Ld. Counsels for the parties as the settlement has already been taken place and for its implementation, revival of Board of Directors of the Corporate Debtor Company is necessary, therefore, we set aside the impugned order without going into merits of the impugned order, with this condition that in case, there is any difficulty in implementing the settlement then the Appellant may file Application for revival of this Appeal.

The matter is remanded back to the Adjudicating Authority.

The IRP hand over the charge of the Company to the Directors of the Corporate Debtor Company and they shall make the payment of CIRP Costs as well as IRP fees within a period of five days.

After implementation of settlement, the parties shall file Appropriate Application before the Adjudicating Authority and they will decide the Application as per law.

It is made clear that the Corporate Debtor Company is free from rigours of the moratorium for limited purpose to implement the settlement.

If the implementation is failed, then CIRP will be revived and the Appellant may file the Application for revival of this Appeal.

With the aforesaid direction, the Appeal is disposed of and the parties are directed to appear before the Adjudicating Authority on 04th August, 2021.

The Registry is directed to send the copy of this order to the concern Adjudicating Authority.

[Justice Jarat Kumar Jain]
Member (Judicial)

[Dr. Ashok Kumar Mishra]
Member (Technical)

sc/md