

NATIONAL COMPANY LAW APPELLATE TRIBUNAL

NEW DELHI, PRINCIPAL BENCH

Company Appeal (AT) (Ins.) No. 285 of 2021

In the matter of:

Abhay Gordhanbhai Thummar

....Appellant

Vs.

Usmangani Habibbhai Kasmani and Anr.

...Respondents

Present

For Appellant: Mr. Vikas Mehta and Mr. Amar Dave, Advocates.

**For Respondents: Ms. Pallavi Pratap, for R-1.
Mr. Sumit Kansal, for R-2.
Mr. Sunil Kumar Agarwal, for IRP.**

ORDER
(Virtual Mode)

15.04.2021: In terms of the Order dated 05.04.2021, 'Joint Affidavit' has been filed by Respondent No. 1 on 08.04.2021, in respect of the settlement terms signed by them.

2. Heard the Learned Counsel for the Appellant and Respondent No. 1 and also the IRP and RP.

3. In the Joint Affidavit it has been averred as follows;

"1. The Respondent No. 1 (Financial Creditor) herein had filed an application under Section 7 of the Insolvency & Bankruptcy Code, 1908 against M/s Shreeya Peanuts Pvt. Ltd. who is the Corporate Debtor in C.P. (IB) No. 421/7/NCLT/AHM/2019. By an order of the NCLT dated 24.03.2021, the application got admitted and directions has been passed for appointment of Mr. Sunil Kumar Agarwal i.e. Respondent No. 2 herein as the Interim Resolution Professional of the Corporate Debtor. Against the said order of the NCLT dated 24.03.2021, the Appellant has filed the impugned appeal before this Hon'ble Appellate Tribunal.

2. In the interregnum dispute is resolved amicably between the parties, whereby as a full and final settlement in lieu of unsecured loan/debts of Rs. 2,41,00,000/- (Rupees Two Crores Forty-One Lakhs). The said amount of Rs. 2,41,00,000/- has been received by Respondent No. 1 vide RTGS UTR NO. CBINR52021040310013960 & UTR NO. CBINR52021040310014118 on dated 03.04.2021 from the Appellant herein and now Respondent No. 1 have no outstanding claim of any nature against the Corporate Debtor i.e. Shreeya Peanuts Private Limited and thereby there are no dues owed by Shreeya Peanuts Private Limited to Respondent No. 1.

3. In view of the above, the parties herein prays this Hon'ble Tribunal to quash and set aside the order passed by the NCLT, Ahmedabad dated 24.03.2021 below C.P. (IB) No. 421/7/NCLT/AHM/2019 which has been challenged by the Appellant before this Hon'ble Tribunal."

4. Now it has been submitted that the dispute between the parties has been resolved and further in full and final settlement, the unsecured loan/debts of Rs. 2,41,00,000/- has been paid to Respondent No. 1. There is no other outstanding claim made against the 'Corporate Debtor' i.e. Shreeya Peanuts Private Limited while under Section 12A of the IBC Code.

5. In view of this submission, this Tribunal sets aside the Order passed by NCLT, Ahmedabad Bench dated 24.03.2021 in C.P. (IB) No. 421/7/NCLT/AHM/2019 which has been challenged in the instant Appeal.

6. Learned Counsel for Respondent No. 1 submitted that she has no objection with the proceedings as she has received the entire amount.

7. Counsel for the IRP and RP both are present and submitted that they have received their fee and other costs and they also have no objection to quash and set aside the Impugned Order.

8. After hearing Counsel for the parties in view of the Affidavit filed on behalf of the Appellant and Respondent No. 1 and further submits that the IRP and RP while exercising power under Section 12A of the IBC, we hereby quashed the Impugned Order dated 24.03.2021 of National Company Law Tribunal Ahmedabad Bench.

9. The Appeal stands allowed. No order as to costs.

10. The Registry is directed to upload this Order on the website of this Appellate Tribunal.

11. Registry is directed to send a copy of the Order to the National Company Law Tribunal, Ahmedabad Bench.

[Justice Anant Bijay Singh]
Member (Judicial)

[Ms. Shreesha Merla]
Member (Technical)

ha/nn