

National Company Law Appellate Tribunal, New Delhi

Principal Bench

I.A. No. 1337 & 1338 of 2021

In

Company Appeal (AT) (Ins) No. 357 & 358 of 2021

IN THE MATTER OF:

Lalit Kumar Kesarimal Jain

...Appellant

Vs.

JM Financial Trustee Company Pvt. Ltd. &Ors

...Respondents

Present:

For Appellant:

Mr. Sudipto Sarkar, Sr. Advocate, Mr. Abhijeet Sinha, Mr. Mahesh Agarwal, Mr. Shadab S. Jan, Mr. Neeraj Kr. Gupta, Mr. Himanshu Satija, Mr. Divyang Chandiramani, Advocates

For Respondent:

**Mr. Ramji Srinivasan, Sr. Advocate with Mr. Shubhabrata Chakraborti, Ms. Sharmishtha Ghosh, Ms. Rajshree Chaudhary, Mr. Shivkrit Rai Mr. J. Shah, Advocates for R1
Mr. Amir Ariswala, Mr. Atul Jain (For R2, RP)**

ORDER

(Through Virtual Mode)

19.07.2021: Heard on I.A. No. 1337 & 1338 of 2021 Applications under Rule 11 of NCLAT Rules, 2016. This matter was listed for hearing on 06.08.2021. Meanwhile, The Appellant has filed aforesaid Applications; therefore, today this matter is listed for orders on interim applications.

2. Ld. Sr. Counsel for the Appellant submits that on 30.06.2021 the parties have amicably settled the dispute between them and entered into a settlement agreement on the same day.

3. He further submits that as per the settlement agreement the CIRP costs and fees of Interim Resolution Professional (IRP) shall be borne by the

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Corporate Debtor Company. It is informed that in the light of settlement agreement the Respondent No. 1 through IRP has filed I.A. No. 1142 of 2021 before the Adjudicating Authority under Regulation 30 A (1) (a) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulation, 2016.

4. In this matter the constitution of the Committee of Creditors (COC) was stayed by this Appellate Tribunal, therefore, withdrawal of the CIRP pre-constitution of CoC will not bar other Creditors for pursuing their remedies under law including Section 7 or 9 of the IBC, therefore, no harm or prejudice caused to any claimant. In view of the above facts and circumstances, it is prayed that this Appellate Tribunal may exercise its inherent powers under Rule 11 of NCLAT Rules, 2016 and terminate the CIRP initiated vide order dated 20.04.2021 passed by the Adjudicating Authority in CP No. 960-961 of 2020.

5. Ld. Sr. Counsel for the Respondent No. 1 (Financial Creditor) is in agreement with the submissions made by the Ld. Sr. Counsel for the Appellant (Corporate Debtor) and submits that the CIRP may be terminated.

6. Ld. Counsel for the IRP has stated at bar that the IRP has already received the fees upto 30.06.2021 and the Corporate Debtor Company shall pay the remaining fees of IRP and CIRP costs.

7. After hearing Ld. Sr. Counsels for the parties, we have gone through the record.

8. Brief facts of this case are that the Financial Creditor (R-1) filed CP No. 960-961 of 2020 before the Adjudicating Authority under Section 7 of the IBC for initiating CIRP against the Corporate Debtor (Kumar Urban Development

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Pvt. Ltd.) Ld. Adjudicating Authority vide impugned order dated 20.04.2020 admitted the Application.

9. Being aggrieved the Appellant who is Promoter/Director of the Corporate Debtor has preferred this Appeal.

10. We have considered the submissions of Ld. Counsels for the parties. It is the settled law that to meet the justice this Appellate Tribunal can exercise its inherent powers under Rule 11 of NCLAT Rules, 2016. We are of the considered view that this is a fit case for exercising the inherent powers under Rule 11 of NCLAT Rules, 2016. Thus, the aforesaid applications are allowed and CIRP against the Corporate Debtor has terminated. The Corporate Debtor is free from the rigours of the CIRP. The settlement agreement is taken on record. The parties shall bound by the terms and conditions of the settlement agreement and the same is deemed to be part of this order. Resultantly, CA (AT) (Ins) No. 357 & 358 of 2021 are disposed of and the interim order is vacated, the date of hearing 06.08.2021 is cancelled. No order as to costs.

[Justice Jarat Kumar Jain]
Member (Judicial)

[Dr. Ashok Kumar Mishra]
Member (Technical)

sc/md

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