

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 889 of 2019

IN THE MATTER OF:

Bajrang Choudhary

.... Appellant

Vs

Religare Finvest Ltd. & Anr.

.... Respondents

Present:

For Appellant: Mr. Abhijeet Sinha, Mr. Arijit Mazumdar, Mr. A.K. Awasthi, Mr. Devesh Ajmani and Mr. Aditya Shukla, Advocates.

For Respondents: Mr. Sandeep Das, Advocate for Respondent No.1.

O R D E R

06.09.2019 This Appeal has been preferred by Bajrang Choudhary, Managing Director and Shareholder of Bharat Road Network Limited, New Town, Kolkata ('Corporate Debtor'), challenging order dated 28th August, 2019 passed by the Adjudicating Authority (National Company Law Tribunal), Kolkata Bench, Kolkata admitting an application under Section 7 of the Insolvency and Bankruptcy Code, 2016 (for short 'I&B Code') filed by Religare Finvest Limited ('Financial Creditor').

2. Earlier, when the matter was taken up on 30th August, 2019, learned Counsel for the Appellant submitted that the Appellant requested the Adjudicating Authority to defer the matter for pronouncement of the order as the 'Corporate Debtor' is willing to pay the total debt of the 'Financial Creditor' as per the claim filed in Form-1. However, without giving such opportunity, the impugned order dated 28th August, 2019 was passed. We

issued notice to the Respondents, to find out whether there was any chance of settlement or not before the constitution of 'Committee of Creditors'. However, the 'Interim Resolution Professional' was asked not to make any publication, if not yet published and if no 'Committee of Creditors' has been constituted. The Appellant and Promoter was asked to co-operate with the 'Resolution Professional' and handover records and assets of the 'Corporate Debtor' to the 'Resolution Professional'.

3. Mr. Sandeep Das, learned Counsel appears on behalf of 1st Respondent Religare Finvest Limited ('Financial Creditor'). He submits that parties have agreed for settlement prior to the impugned order dated 28th August, 2019.

4. Learned Counsel for the Appellant handover a Demand Draft No.584006 dated 5th September, 2019 issued in the name of Religare Finvest Limited ('Financial Creditor') and handed over the same to Mr. Manpreet Singh Suri, Authorised Representative of Religare Finvest Limited as identified by the learned Counsel for 1st Respondent – 'Financial Creditor'.

5. Taking into consideration the fact that the 'Committee of Creditors' has not yet been constituted and the parties have settled the matter, we set-aside the impugned order dated 28th August, 2019 and dismiss the application under Section 7 of the I&B Code filed by Religare Finvest Limited. The Adjudicating Authority will now close the Company Petition.

6. Taking into consideration that the 'Interim Resolution Professional' has functioned since 28th August, 2019, i.e. about 10 days, we direct the 'Corporate Debtor' to pay a sum of Rs.1,50,000/- to the 'Interim Resolution

Professional' towards fees and cost, if any incurred by him, within three weeks.

7. In the result, order (s) passed by Ld. Adjudicating Authority appointing 'Interim Resolution Professional', declaring moratorium and all other order(s) passed by Adjudicating Authority pursuant to impugned order and action taken by the 'Resolution Professional' are set aside. The application preferred by the Respondent under Section 7 of the I&B Code is disposed of as withdrawn. The Adjudicating Authority will now close the proceeding. The Respondents Company is released from all the rigour of law and is allowed to function independently through its Board of Directors from immediate effect.

8. The appeal is allowed with aforesaid observations and directions. No costs.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice A.I.S. Cheema]
Member (Judicial)

[Kanthi Narahari]
Member (Technical)

Ash/GC