

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 126 of 2022
& I.A. No. 577 of 2022**

IN THE MATTER OF:

Uttamkumar Motiramji Shambharkar

...Appellant

Versus

Mithilanchal Constructions

Through its Partner Abhishek Kumar & Anr.

...Respondents

Present:

**For Appellant: Mr. Rakesh K. Sharma, Mr. Sandeep Deshmukh,
Mr. Hafeezur Rahman and Mr. Nishant Sharma,
Advocates.**

**For Respondents: Mr. Shree Prakash Sinha, Ms. Gunjan Chaubey and
Mr. M. P. Singh, Advocates for R-1.
Mr. Dinesh S. Shah, Advocate for R-2.**

**O R D E R
(Virtual Mode)**

25.04.2022: This Appeal has been filed against the order dated 25.01.2022 passed by the Adjudicating Authority (National Company Law Tribunal), Mumbai Bench, Court – 2 by which application under Section 9 of the Insolvency and Bankruptcy Code, 2016 filed by the Operational Creditor (Respondent herein) has been admitted.

2. This Appeal was taken by this Tribunal and following order was passed on 08.02.2022:

**“ORDER
(Virtual Mode)**

08.04.2022: *Learned Counsel for the Appellant submits that the parties are on negotiation table and Appeal may be adjourned.*

*List this Appeal on **25th April, 2022** along with I.A. No. 577 of 2022.”*

Cont'd.../

3. I.A. No. 1146/2022 has been filed by both the parties where it has been stated that settlement has taken place between the parties by Settlement Agreement dated 08.04.2022. It is prayed that this Settlement Agreement be accepted on record and order passed by the Adjudicating Authority dated 25.01.2022 be withdrawn.

4. Interim Resolution Professional (IRP) who is present submits that he has not been paid any fee and expenses.

5. Learned counsel for the Appellant referred to Para 9 of the Settlement Agreement where it is provided that fee fixed for the IRP shall be paid by the Second Party i.e. Respondent No. 1 in the Appeal.

6. Learned counsel for the parties have agreed that Settlement Agreement shall be binding on the parties.

7. In view of the aforesaid, we allow I.A. No. 1146/2022. The Settlement Agreement dated 08.04.2022 is taken on record. The impugned order passed by Adjudicating Authority dated 25.01.2022 is withdrawn. The IRP shall be paid the fee as well as expenses within a period of two weeks. The IRP shall submit bill of expenses to the Respondent No. 1 within a week. Appellant had deposited an amount of Rs.1,49,450/- under the orders of this Tribunal dated 08.02.2022 which amount shall be refunded to the Appellant. Appeal is disposed of accordingly. All pending I.As. stand closed.

[Justice Ashok Bhushan]
Chairperson

[Shreesha Merla]
Member (Technical)

Archana/nn