

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 123 of 2024

IN THE MATTER OF:

Sachin Malde

...Appellant

Versus

Hemant Nanji Chheda & Anr.

...Respondents

Present:

For Appellant : Mr. Krishnendu Datta, Sr. Advocate with Mr. Anish Agarwal, Mr. Tejas Agarwal and Mr. Pratik Chakma, Advocates

For Respondent : Mr. Rishi Kumar Singh Gautam, Advocate for R-2.
Mr. Kartik Pandey, Advocate for R-1.

O R D E R
(Hybrid Mode)

02.04.2025 Heard Learned Counsel for the Appellant. Learned Counsel appearing for the Respondent – Financial Creditor as well as Learned Counsel for the RP.

2. This Appeal have been filed challenging the order passed by the Adjudicating Authority dated 02.01.2024 admitting Section 7 Application filed by the Financial Creditor – Hemant Nanji Chheda. In this appeal, an interim order was passed by this Tribunal on 19.01.2024. The following order was passed:

“19.01.2024: Learned counsel for the Appellant submits that the Appellant has filed an application raising maintainability of the application, hence, no reply was filed. It is submitted that the statement recorded by the Adjudicating Authority in the order dated 23.11.2023 that the Corporate Debtor does not wish to file any reply was not correct recording and an application has been filed for modification of the order

dated 23.11.2023, which application is pending. It is submitted that without there being defence of the Appellant - Corporate Debtor, the Adjudicating Authority has admitted Section 7 application.

Learned counsel for the Appellant submits that to show his bonafide, the Appellant is ready to deposit amount of Rs.5 Crore before this Tribunal.

Let the amount of Rs.5 Crore be deposited by way of Bank Draft in the name of Registrar, NCLAT during the course of the day.

Issue notice. Let Reply be filed by the Respondents within to weeks. Rejoinder be filed within two weeks' thereafter.

List this Appeal on 14.02.2024.

In the meantime, the impugned order dated 02.01.2024 shall remain stayed.

This is without prejudice to the rights and contentions of both the parties.”

3. An I.A. have been filed being I.A. No.1617 of 2025 by the Appellant bringing on record, settlement / consent terms between the parties dated 02.01.2024 under which the Financial Creditors has agreed to receive amount of Rs.5,00,00,000/- deposited under the orders of this Court to settle the entire claim.

4. Learned counsel for the Appellant submits that in pursuance of the order admitting Section 7 Application, RP had issued a publication invited claims. Learned Counsel for the RP submits that no claims have been received

except the claim of Financial Creditor there are no other creditors in the Corporate Debtor.

5. Learned Counsel for the Appellant submits that in view of the fact that after the publication made by the RP no claims have come therefore, there are no other creditors, hence, there is no necessary to ask the Financial Creditor to file a Section 12A Application which shall only be an empty formality, since there are no other creditors and Financial Creditor has already settled. We are of the view, that in the facts of the case as noticed above, there is no necessity to ask the Financial Creditor to file 12A Application. The judgment of Hon'ble Supreme Court in **GLAS Trust Company LLC Vs. BYJU Raveendran & Ors. in Civil Appeal No. 9986 of 2024** also lays down that in appropriate cases inherent power can be exercised to close the proceedings.

6. In facts of the present case, we are of the view that in view of the settlement between the parties brought on record the proceedings of insolvency against the Corporate Debtor need to be closed. The impugned order is set aside. The amount deposited in the registry under the orders of this Court shall be paid to the Respondent No.1.

7. Learned Counsel for the Financial Creditor submits that they have already deposited Rs. 3,00,000/- the IRP to take care of his fee & expenses and the order having been stayed on 19.01.2024 no further steps had been taken place. In view of the aforesaid, we are of the view that the Financial

Creditor need to pay the expenses incurred by the IRP during the aforesaid period including the expanses for publication. The Financial Creditor as well as the Appellant shall jointly share the expenses of the IRP. IRP may communicate his expenses within two weeks from today, which shall be paid within four weeks.

The Appeal is disposed of.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

[Arun Baroka]
Member (Technical)

pks/nn