



IN THE NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH
COURT NO. 1

ITEM No.201
IA/140(MP)2023
in
TP 57 of 2019 [CP(IB) 541 of 2019]

Proceedings under Rule 11 of NCLT Rules, 2016

IN THE MATTER OF:

Subhash Agrawal
V/s
Asha Goyal & Anr

.....Applicant

.....Respondents

Order delivered on 16/06/2023

Coram:

Mahendra Khandelwal, Hon'ble Member(J)
Kaushalendra Kumar Singh, Hon'ble Member(T)

PRESENT:

For the Applicant :
For the Respondents :

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open Court vide separate sheet.

-sd-

**KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)**

A. Bhadauria

-sd-

**MAHENDRA KHANDELWAL
MEMBER (JUDICIAL)**



**BEFORE THE ADJUDICATING AUTHORITY
THE NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH**

IA 140 of 2023

In

TP 57 of 2019 [CP(IB) 541 of 2019]

IA 140 of 2023

(An application under Rule 11 of the NCLT Rules, 2016)

Subhash Agrawal

S/o Late Shri R.K. Agrawal
18/2, Lasudiya Mori
Dewas Naka, A.B. Road
Indore-452001

Applicant

Versus

Asha Goyal

W/o Shri Shyam Goyal
C.R. Dass Farm
Gopalpura Mod, Tonk Road
Jaipur-302015

Respondent No.1

Pharma Traders Private Limited

Through Insolvency Resolution Professional
Ms. Pratibha Khandelwal
F2/14, LIC Flats, Sector-2
Vidhyadhar Nagar
Jaipur-302039

Respondent No.2

In the Matter of TP 57 of 2019 [CP(IB) 541 of 2019]:

(Under Section 7 of the Insolvency and Bankruptcy Code, 2016 r.w. Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016)

Asha Goyal

Petitioner

Versus

Pharma Traders Private Limited

Respondent

Order reserved on: 18.05.2023

Order pronounced on: 16.06.2023

Coram: Hon'ble Mahendra Khandelwal, Member (J)

Hon'ble Kaushalendra Kumar Singh, Member (T)



Present:

For the Applicant: Ld. Adv. Mr. Vijayesh Atre

For the Respondent (IRP): Ms. Pratibha Khandelwal

ORDER

1. This application is filed on 03.05.2023 by Mr. Subhash Agrawal (**Applicant**) - the suspended director of respondent No.2- Pharma Traders Private Limited, under Rule 11 of the National Company Law Tribunal Rules, 2016 seeking withdrawal of the petition i.e. TP 57 of 2019 in CP(IB) 541 of 2019 in view of the settlement between the applicant and the respondent No.1.

2. We have heard the learned counsel for the applicant as well as for the IRP and have perused the material available on record. Succinctly, the facts of the case are such that the petition under section 7 of the Code was admitted into Corporate Insolvency Resolution Process (CIRP) by this Adjudicating Authority vide order dated 15.12.2022, in pursuance of which Committee of Creditors (CoC) was constituted comprising of AU Small Finance Bank Limited & Asha Goyal (i.e. respondent No.1).

3. Subsequently, on an appeal filed by the applicant before the Hon'ble NCLAT the proceedings were stayed vide order dated 12.01.2023. Meanwhile, the applicant settled all the disputes with respondent No.1 and entered into a settlement deed dated 20.03.2023.

4. Pursuant to the settlement the Hon'ble NCLAT has vide its order dated 01.05.2023, while disposing of the appeal (Company Appeal (AT) (Ins.) No. 40 of 2023) granted liberty to the applicant to file an appropriate application before this Adjudicating Authority and also continued interim order for stay for a further period of three weeks. For ready reference the relevant part of the said order is reproduced as under:



2. Considering the submissions made by Learned Counsel for the appellant we propose to dispose of this appeal granting liberty to the appellant to file appropriate application before the Adjudicating Authority within a period of one week from today. We expect that Ld. National Company Law Tribunal make take appropriate decision on such application within a period of two weeks thereafter.

3. We make it clear that interim order of stay which we have passed in this appeal shall continue for further period of three weeks from today.

5. The applicant has obtained and placed on record a No-Objection Certificate (NOC) from one of the CoC members i.e. AU Small Finance Bank Limited to withdraw the proceedings against respondent No.2 and has also placed on record the settlement deed entered between the applicant and another CoC member i.e. Asha Goyal (i.e. respondent No.1) at whose behest the company was admitted into CIRP.

6. Since the settlement deed has been entered into between the original financial creditor and the suspended director of the corporate debtor and both the CoC members have provided their consent to withdraw the matter, we therefore, allow the present application. The CIRP that was initiated vide order dated 15.12.2022 passed by this Adjudicating Authority is hereby terminated/closed. The corporate debtor is released from the rigors of the CIRP and moratorium. Further, the IRP is directed to hand over the control & possession of the corporate debtor to its directors/ management.

7. As regards the unpaid fees & CIRP cost claimed by the IRP, we, direct AU Small Finance Bank Limited and Asha Goyal being the members of CoC to pay the fees of the IRP along with CIRP cost as approved within two weeks from the date of this order.



8. Accordingly, the present application i.e. IA 140 of 2023 is allowed and disposed of and the main petition i.e. TP 57 of 2019 [CP(IB) 541 of 2019] is dismissed as withdrawn.

The Registry is directed to communicate a copy of this order to the applicant, IRP and respondent No.1.

-sd-

Kaushalendra Kumar Singh
Member (Technical)

-sd-

Mahendra Khandelwal
Member (Judicial)

Swati Khandelwal