

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI
Company Appeal (AT) (Insolvency) No.494 of 2023

IN THE MATTER OF:

Bhagwandas R. Bhattad

...Appellant

Versus

R. M. Bhuther and Company Ltd. & Anr.

...Respondents

Present:

**For Appellant: Mr. P. Nagesh, Sr. Advocate with Mr. Arjun Nanda,
 Mr. Akshay Sharma, Mr. Bharat Kr. Jain, Advocates.**

**For Respondents: Mr. Shyel Trehan, Mr. Pranav Sarthi, Ms. Shivalika,
 Advocates for R-2.
 Mr. Dyutz Ghai, Advocate for R-1**

ORDER

18.05.2023: Heard Learned Counsel for the parties.

This appeal has been filed against the order dated 03.03.2023 by which Adjudicating Authority has admitted Section 7 application on IA No. 1621/2023. Section 7 application was filed by the Financial Creditor for default of an amount of Rs. 1,15,88,470/-.

2. In Section 7 proceedings, a Consent Terms was entered between the parties on 30.06.2021 under which the parties settled their issues and certain payments were required to be made by the Corporate Debtor. There was breach

in the Consent Terms hence, an IA was filed to revive the Section 7 application which has been revived by the order dated 14.02.2023. After the revival of the application by the Impugned Order, Section 7 application has been admitted.

3. Learned Counsel for the Appellant submits that when the Appeal was taken up, this Court has passed an order on 21.04.2023 to deposit the Appellant an amount of Rs. 1,71,80,263/- which according to the Appellant has already been deposited.

4. Learned Counsel for the Appellant submits that in view of the fact that entire Principal Amount has been deposited +interest, there is no purpose for continuing the CIRP any further.

5. Learned Counsel for Respondent refuting the submissions contends that since the Consent Terms were breached by the Corporate Debtor, the Adjudicating Authority did not commit any error in admitting Section 7 application.

6. It is submitted by the Learned Counsel for Respondent that amount of Rs. 2,27,26,425/- is due on the Corporate Debtor as per Consent Terms which statement disputed by the Appellant.

We have considered the submission of the parties and perused the record.

7. The amount under part-IV of the Section 7 application is to the following effect:-

Amount claimed to be in default and the date on which the default occurred (Attach the workings for computation of amount and days of default in tabular form)	<u>Amount claimed to be in default:</u> The Principal Amount of Rs. 1,00,00,000/- (Rupees One Crore only), Interest of Rs. 9,23,334/- (Rupees Nine Lakhs Twenty Three Thousand Three Hundred and Thirty Four only), Financial Loan (ICD) Processing and Sanction Charges and Out of Pocket Expenses of Rs. 6,65,136/- (Rupees Six Lakhs Sixty Five Thousand One Hundred and Thirty Six only) aggregating to Amount Outstanding of Rs. 1,15,88,470/- (Rupees One Crore Fifteen Lakhs Eighty Eight Thousand Four Hundred and Seventy only).”
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8. It is to be noted that in view of the Consent Terms between the parties, the Appellant has deposited in the Court, the amount of Rs. 1,71,80,263/- as noted above.

9. We are of the view that in the ends of justice be served in directing that the said amount deposited in the court is paid to the Financial Creditor. The

Principal Amount + Interest having been paid, we see no purpose in continuing the CIRP against the Corporate Debtor. In so far as the submission of the Learned Counsel for the Financial Creditor that Consent Terms, the entire amount of Consent Terms has not been paid, the Financial Creditor is at liberty to take such proceedings as permissible in law to recover the balance amount.

With these observations ***we dispose of the Appeal.***

10. Learned Counsel for IRP submits that IRP fee and expenses has not yet been paid.

11. Learned Counsel for the Appellant submit that Appellant shall make the payment and expenses subject to submission of the bills along with necessary receipts etc. The amount shall be paid within two weeks thereafter.

**[Justice Ashok Bhushan]
Chairperson**

**[Mr. Naresh Salecha]
Member (Technical)**

ss/nn