

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, PRINCIPAL BENCH,

NEW DELHI

Company Appeal (AT) (Ins.) No. 1044 of 2021

&

I.A. No. 2772 of 2021

IN THE MATTER OF:

Neeraj Chaudhary

...Appellant

Versus

Fontal Flexipack Ltd. & Anr.

...Respondents

Present:

For Appellant: Mr. Dhruv Gupta, Adv.

For Respondent: Mr. Ranjit Khatri, Adv. for R1

Mr. KK Mishra & Shashank Arora, Adv. for R2

O R D E R

20.12.2022: This appeal is directed against the order dated 13.10.2021, by which an application filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 (in short 'Code') and Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (in short 'Rules') by M/s Fontal Flexipack Ltd. (Operational Creditor) against M/s Adityasamraj Natural Foods Pvt. Ltd. (Corporate Debtor) in respect of debt of Rs. 4,17,878/- on account of goods supplied, was admitted on 13.10.2021 and Sunil Kumar Gupta was appointed as Interim Resolution Professional (IRP).

2. Aggrieved against the order dated 13.10.2021, suspended director of the Corporate Debtor has come in appeal. On 15.12.2021, when the matter was listed for the first time, the following order was passed:

“Issue notice to the Respondents through Speed Post as well as e.mail (both mode). Requisites along with process fee be filed within

three days. If the Appellant provides the e-mail Address of the Respondents, let notice be also issued through e-mail.

Learned Counsel for the Appellant submits that the amount claimed by the Respondent was only Rs. 4,17,878/- and the Appellant has written to Respondent No. 1 to settle the dispute for which email dated 23.11.2021 has already been sent and the response of the Respondent is awaited. Letter has also been sent by Speed Post.

Let the reply be filed within two weeks. Rejoinder, if any, may be filed by the Appellant within two weeks thereafter.

List this matter for 'Admission' (After Notice) on 21.01.2022.

In the meantime, the order dated 13.10.2021 of the Adjudicating Authority shall remain stayed.

In the meanwhile, it shall be open to the parties to enter into settlement, if any."

3. Since thereafter, the case has been adjourned for exploring the possibility of a compromise.

4. Mr. Dhruv Gupta, appearing on behalf of the Appellant, after seeking instructions, has submitted that the Appellant is ready and willing to pay Rs. 4,17,878/- (principal amount) and 1,46,177 towards the interest. The total amount comes to Rs. 5,64,055.

5. Mr. Ranjit Khatri, appearing on behalf of Respondent No. 1 has accepted this amount for the purpose of settlement.

6. At this stage, Mr. K.K. Mishra, appearing on behalf of Sunil Kumar Gupta (IRP) has submitted that he has also incurred some expenses which may be ordered to be paid by Respondent No. 1 herein. According to him, the said amount is approximately Rs. 75,000/-.

7. Since, the parties have resolved this dispute and have decided to bury the hatchet for all times to come about this dispute on payment of Rs. 5,64,055/- by the Appellant to the Respondent No. 1 and Respondent No. 1 to the IRP an amount of Rs. 75,000/- approximately, thus, the present appeal is hereby allowed and the order dated 13.10.2021 is set aside subject to the

condition that the Appellant shall pay Rs. 5,64,055/- by way of bank draft drawn in the name of Respondent No. 1 (Operational Creditor) within a period of 15 days from today and the Respondent No. 1 shall pay an amount of Rs. 75,000/- by way of bank draft to Sunil Kumar Gupta (IRP) within 15 days thereafter.

[Justice Rakesh Kumar Jain]
Member (Judicial)

[Mr. Kanthi Narahari]
Member (Technical)

Sheetal/RR