

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

Company Appeal (AT) (Insolvency) No. 986 of 2022

IN THE MATTER OF:

Suresh Chandra Jena

...Appellant

Versus

Totale Global Pvt. Ltd. & Ors

...Respondents

Present:

**For Appellant: Mr. Ashish Makhija and Mr. Deep Bisht,
 Advocates.**

For Respondents:

ORDER

23.08.2022: This Appeal has been filed by the Erstwhile IRP challenging the order passed by the Adjudicating Authority in I.A. No. 1836 of 2021 filed by the Suspended Director of the Corporate Debtor. I.A. 1836 of 2021 was filed seeking necessary order for accepting the settlement between the parties. This Appellate Tribunal passed two orders directing the IRP to file application under Section 12A which was subsequently filed. The Adjudicating Authority by the impugned order allowed the application filed by the Suspended Director and has closed the CIRP proceedings and other applications held to be infructuous.

2. Learned counsel for the Appellant submits that the IRP had filed the application with delay since the complete Form FA was not submitted to him. He further submits that amount of Rs.2 Lakhs which was directed to be deposited by the Operational Creditor has also not been paid to the IRP.

He submits that in pursuance of the directions of the Adjudicating Authority now IBBI has issued show cause notice to the Appellant.

3. We have considered submissions of learned counsel for the Appellant and perused the record.

4. The Adjudicating Authority having considered all relevant facts allowed the application filed by the Suspended Director of the Corporate Debtor accepting the settlement and closing other applications pending in the matter. We do not find any error in the order of the Adjudicating Authority setting aside the initiation of CIRP against the Corporate Debtor. We are, however, of the view that as directed by the Adjudicating Authority in its order dated 10.08.2021, an amount of Rs.2 Lakhs was required to be paid by the Operational Creditor which may be paid to the IRP within a period of four weeks from today. Insofar as Show cause notice issued by IBBI is concerned, it is for the IBBI to consider the same after considering the reply of Appellant and take appropriate decision. Subject to the above observations, the Appeal is dismissed.

[Justice Ashok Bhushan]
Chairperson

[Justice M. Satyanarayana Murthy]
Member (Judicial)

[Barun Mitra]
Member (Technical)

Archana/nn