

IN THE NATIONAL COMPANY LAW TRIBUNAL
COURT - I, MUMBAI BENCH

C.P. (IB) No. 3735/NCLT/MB/2018
(Under Section 9 of the I&B Code, 2016)

Forever Glory Trading Limited
... Operational Creditor
V/s.
Global Powersource (India) Limited
... Corporate Debtor

Order Dated: 05.10.2020

Coram:

Hon'ble Member (Judicial), Janab Mohammed Ajmal
Hon'ble Member (Technical), Shri V. Nallasenapathy

Appearances (via video-conferencing):

For the Petitioner : Mr. Keanan Nagporwala
For the Corporate Debtor : Mr. Kalpesh Joshi
For the IRP : Mr. Harsh Kesharia

ORDER

Per: V. Nallasenapathy, Member (Technical)

1. The Court convened through video conference. Heard the Counsel for the Petitioner, Respondent and the Interim Resolution Professional (IRP) on the mentioning praecipe. The praecipe being allowed, the Company Petition is taken up and heard.

2. It is submitted that this Bench on 03.06.2020 had admitted the Insolvency & Bankruptcy Petition and Mr. Anand Gopikishan Mundada was appointed as the IRP of the Corporate Debtor. Mr. Ashwin Kisandas Parekh, the Director of the Corporate Debtor challenged the order in Company Appeal (AT) (Insolvency) No. 604 of 2020 before the Hon'ble National Company Law Appellate Tribunal (NCLAT). The Hon'ble NCLAT on 07.09.2020 while disposing the appeal passed the following order:

"Learned Counsel for the Appellant submits that the Appellant has settled the claim of Respondent Operational Creditor. However, Shri. Harsh Kesharia, Advocate representing the Interim Resolution Professional submits that Interim Resolution Professional is unable to take charge of the assets of the Corporate Debtor as he is locked in Beed in Maharashtra and has not been able to take over his assignment. He submits that even public announcement is yet to be issued. Consequently, no claims have been received.

In view of this peculiar situation, we decline to take the Consent Terms on record because we are not aware of all the stakeholders/claimants intending to file claims. It would therefore be appropriate for the parties to file the Consent Terms before the Adjudicating Authority, who would take decision thereon, keeping in view the factual and legal position.

Appellant is permitted to withdraw the appeal and the appeal is disposed of with direction to the parties to approach the Adjudicating Authority on 11th September, 2020 who would take up the matter for consideration on that date. The interim direction in regard to constitution of Committee of Creditors shall stand extended till 11th September, 2020. The appeal is disposed of as withdrawn."

3. Both the sides now submit that they have entered into consent terms and the consent terms filed by the parties are taken on record. Counsel for the Corporate Debtor submits that neither any other petition against the Corporate Debtor is pending nor any Financial

Creditor or Operational Creditor has sent any default notice against the Corporate Debtor.

4. The Counsel for the IRP submitted that IRP has neither taken charge of the Corporate Debtor nor issued any public advertisement inviting claims.
5. In view of the consent terms filed by the parties this Company Petition is dismissed as withdrawn with liberty to the Petitioner to move an Application for revival of the Company Petition in case the consent terms are violated.
6. Applications pending, if any, in this matter stand disposed of.

Sd/-
V. NALLASENAPATHY
MEMBER (TECHNICAL)

Sd/-
MOHAMMED AJMAL
MEMBER (JUDICIAL)