

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

Company Appeal (AT) (Insolvency) No. 1076 of 2021

IN THE MATTER OF:

Go Airlines (India) Ltd.

...Appellant

Versus

Sovika Aviation Services Pvt. Ltd. & Ors.

...Respondents

Present:

For Appellant: Mr. K. Datta, Sr. Advocate with Mr. Ayush Beotra, Mr. Jay Zaveri, Mr. Amish Tandon and Mr. Uddhav Khanna, Advocates.

For Respondents: Mr. Ritin Rai, Sr. Advocate with Mr. Lzafeer Ahmad, Advocate for R-1.

ORDER
(Virtual Mode)

16.02.2022: Heard Shri Krishnendu Datta, learned senior counsel for the Appellant and Shri Ritin Rai, learned senior counsel appearing for the Respondent. This Appeal has been filed against the order dated 23.09.2021 passed by the Adjudicating Authority (National Company Law Tribunal), Mumbai Bench by which the application filed by the Resolution Professional under Section 12A for withdrawal of the CIRP has been allowed.

2. The Appellant's case is that the Appellant is an Operational Creditor who after coming to know about the process filed his claim on 06.09.2021, response to which was sent by the Resolution Professional by email dated 10.09.2021. The Resolution Professional was in the process of verification of the claims when application under Section 12A stood allowed by the Adjudicating Authority on 23.09.2021.

3. It is to be noted that the Committee of Creditors in its 7th Meeting held on 19.03.2021 had resolved to withdraw CIRP against the Corporate Debtor which fact has been recorded in the impugned judgment.

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4. In view of the sequence of events and facts brought on record that after Committee of Creditors approval dated 19.03.2021 for withdrawal of the CIRP proceedings against the Corporate Debtor after settlement between the parties claim of the Appellant was submitted on 06.09.2021, we do not find any error in the order of the Adjudicating Authority dated 23.09.2021 permitting withdrawal of the CIRP.

5. Insofar as claim of the Appellant, which has not been entertained in the insolvency resolution proceeding, it is always open for the Appellant to take recourse to appropriate legal proceedings before appropriate forum as permissible in law. The fact that claim of the Appellant has not been entertained in the insolvency resolution process, there shall be no bar for the Appellant to take appropriate legal remedy as permissible in law. We make it clear that we have not expressed any opinion on the merits of the claim of the Appellant and it is for the appropriate forum to consider and take decision in accordance with law.

6. Learned Counsel for the Respondent submits that in fact the Appellant has already filed a suit before the commercial court, and a notice for mediation has been received. Be it as it may. It is always open for the parties to take recourse to appropriate remedy as permissible in law. With these observations the Appeal is dismissed.

**[Justice Ashok Bhushan]
Chairperson**

**[Dr. Ashok Kumar Mishra]
Member (Technical)**

Archana/nn