NATIONAL COMPANY LAW APPELLATE TRIBUNAL
AT CHENNAI

(APPELLATE JURISDICTION)

Company Appeal (AT) (CH) (Ins) No. 295/2026
(IA Nos. 838 & 839/2026)

In the matter of:

Mr. Chintalapati Venkata Satya Surya Raghurama Raju,
Suspended Director of Shri Girija Alloy & Power (I) Private Limited,
S/o. Mr. Chintalapati Sanyasiraju,
No.88-3-5, Gadalamma Nagar, Morampudi,
Danavaipeta, East Godavari,
Andhra Pradesh - 533 103. **… Appellant**

V

Jajoo Rashmi Refractories Limited,
Rep by its Director, Sh. Sunil Jaju,
Registered office: B7 SN9, LS Nagar, Naya Kheda,
Shastri Nagar, Jaipur, Rajasthan – 302 016.

Mr. Sourabh Malpani,
Interim Resolution Professional of
Shri Girija Alloy & Power (I) Private Limited
Guru Kiripa Plot No. 93, Neelkanth Colony,
Queens Road, Jaipur – 302 021. **… Respondents**

Present :

For Appellant	:	Mr. E. Om Prakash, Senior Advocate For Mr. N. Nagendra Dhivyarajann, Advocate
For Respondent	:	Mr. Prateek Kedawat, Advocate for R1

ORDER
(Hybrid Mode)

[Oral Judgment: Justice Sharad Kumar Sharma, Member (Judicial)]:-

17.06.2026:

The Respondent M/s. Jajoo Rashmi Refractories Ltd, claiming themselves to be the Operational Creditor, had initiated proceedings under Section 9 of the I & B Code, 2016, as against Shri Girija Alloy & Power (I) Pvt Ltd, the Corporate

Debtor, contending thereof that the proceedings under Section 9 of the I & B Code, 2016, deserve to be initiated against the Appellant, the Corporate Debtor for the reason, being that they had fallen in default for a determined amount of Rs.3,70,41,755.50/-.

2. The backdrop of the case is that the Operational Creditor, the Applicant to the Section 9 application, has been incorporated under the Companies Act of 1956 and is engaged in the business of manufacturing and export of Ferro Alloys, Ramming Mass and Refractory Products.

3. It was the case of the Operational Creditor (Respondent No.1) that the Corporate Debtor, through its authorised representatives had approached the Operational Creditor to purchase Silico Manganese from them, and the Operational Creditor had agreed to procure the same. Accordingly, the Operational Creditor placed three purchase orders with the Corporate Debtor, two of them dated 30.01.2024 and the third purchase order dated 02.02.2024. As per the payment terms contained in the purchase order, the Operational Creditor made certain advance payments to the Corporate Debtor, for the purchase of the said goods, against which the Corporate Debtor supplied the goods, and the Operational Creditor paid the balance amount on despatch of goods. The ledger account of the Corporate Debtor, in the books of accounts of the Operational Creditor, for the period from 01.04.2022 to 19.10.2024, shows a total payment by the Operational Creditor to the tune of Rs.10,43,12,211/- and a total purchase of

Rs.6,72,270,755/-, leaving an outstanding amount of Rs.3,70,41,755.50/-. The Operational Creditor alleges that the Corporate Debtor failed to supply the goods for the aforesaid outstanding amount and also did not refund the advance amount paid, with the malafide intention to dupe them.

4. As per the recording made in the impugned order, since the Corporate Debtor neither supplied the goods nor refunded the advance outstanding, a Demand Notice in the shape of Form-3 as prescribed under Rule 5 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, was issued by the Operational Creditor on 21.10.2024, demanding payment of the aforesaid defaulted amount. The Corporate Debtor, in their reply dated 07.11.2024, acknowledged the liability, and gave a commitment to refund the advance amount received from the Operational Creditor. The Corporate Debtor failed to establish the existence of any dispute as per Section 8(2)(a) of the I & B Code, 2016, and also failed to furnish any proof of payment of the unpaid operational debt in terms of Section 8(2)(b) of the I & B Code, 2016. Therefore, the amount fell to be undisputed and an admitted debt for which the proceeding under Section 9 was initiated by the Operational Creditor.

5. By virtue of the impugned order, the Section 9 application has been allowed, and the Corporate Debtor / the Appellant herein, has been directed to face the CIRP, as it has been observed in para 13 of the impugned order, and an IRP was appointed. When the proceedings were being carried before the Learned

Tribunal, it is contended by the Appellant and accepted by the Respondents too, who is participating in this Appellate proceedings that, the parties have jointly entered into a settlement, and admittedly it has been signed between the parties in the shape of an affidavit giving the agreed terms of the settlement contained therein undertaking the obligation of payment as per the payment schedule which has been assured to be followed by the Appellant.

6. The grievance of the Appellant is that, even though during the proceedings before the Learned Adjudicating Authority, he has brought to the knowledge of the Adjudicating Authority that, the Corporate Debtor is a going concern and there are number of employees were working with it, and therefore, the process of Section 9 of the I & B Code, 2016, should only the last resort for recovery of the outstanding amount and even though he made a statement that on the last date of hearing before the Learned Tribunal, that a settlement has been reached with the Respondent No.1, and the few days time may be given to place the settlement on record, the said request was refused by the Tribunal and the said oral refusal to grant time to place settlement on record of the proceedings, was not even referred in the proceedings because of which, a solvent and a commercially viable company has been unjustly put to face the CIRP process. There have been various contentions raised by the Appellant qua the challenge given to the impugned order. But primarily, what has been argued by the Learned Counsel for the Appellant is that, once the parties have entered into a settlement and when the same was assured to be placed before the Tribunal within 24 hrs,

the Tribunal ought to have taken cognizance of the same and should have deferred passing a final order in the proceeding under Section 9 of the I & B Code, 2016, and could have accepted the settlement agreement dated 07.06.2026, as admittedly entered into between the Operational Creditor and Corporate Debtor, and then it ought to have proceeded as per law to pass an order.

7. He has further argued that owing to the fact that, the settlement in itself contained a full and final settlement amount, payment schedule and an agreement too, to withdraw the pending proceedings before the Learned NCLT, Learned NCLT ought to have exercised its discretion by permitting to place on record the settlement agreement dated 07.06.2026, and could have decided the Section 9 application on the basis of the settlement as undertaken under Clause 3, (that upon complying of the conditions of the payment, there would be a withdrawal of CIRP process) rather than deciding the Section 9 application on merits, and passing the impugned order.

8. When the matter was taken up today at the very threshold, both the Counsels have unanimously made a statement that admittedly, there had been a settlement arrived between them on 07.06.2026, laying down all the modalities of settling the controversy qua the liability payable by the Appellant / Corporate Debtor, for the default as against the Operational Creditor and that Learned Tribunal should have refrained from passing an order on the merits on the very next date i.e., 08.06.2026, directing commencement of CIRP as against a

commercially viable Corporate Debtor, and instead, it ought to have accepted the settlement on record and should have passed an appropriate order. This version extended by the Learned Counsel for the Appellant is not controverted by the Learned Counsel for the Respondent, Operational Creditor.

9. In view of the fact that, the proceedings of the Company Appeal are a proceeding in continuity to the proceedings of Tribunal, any issue such as the fact of the settlement arrived at and the terms thereof which might have been skipped to be considered by the Learned NCLT or which might not have been taken note of, while deciding the proceedings, can still be considered at the stage of appeal, and the petition can be decided accordingly. The Appellant has relied upon a Judgment, ***2025 SCC OnLine NCLAT 1747,*** in the matter of ***Basant Kumar Upadhyay, Ex-Director of Gardenia India Ltd. Vs Kuber Shree Construction Company and Another,*** observing thereof that there should not be an imposition of CIRP, particularly when the grievances of the parties have been settled even prior to the passing of the order of initiation of the CIRP. In the aforesaid case, the undergoing settlement process between the parties, was not even informed to the Learned Tribunal. However, the Principal Bench of NCLAT took a view that, the settlement could be taken as to be the basis for deciding the proceedings under Section 9 of the I & B Code, 2016, by closing the CIRP process. Para 6 of the said Judgment is extracted hereunder: -

> *"6. Ld. Counsel for the Operational Creditor has filed an affidavit as noticed above where the settlement dated 28.06.2025*

has already been referred and accepted, the reasons have given by the operational creditor as to why it could not be brought into the notice of Adjudicating Authority on 30.06.2025 when the orders was pronounced that the parties have settled. The present is a case where admittedly settlement took place prior to initiation of CIRP and the reason due to which the said settlement could not be informed to the court has already been mentioned by the Operational Creditor in his affidavit who has filed Section 9 application. Ld. Counsel for the IRP submits that IRP has already issued publication in pursuance of the order 30.06.2025. In the facts of the present case, we are of the view that in view of the settlement between the parties on 28.06.2025 prior to order date 30.06.2025 there were no debt existing for admission of Section 9 application hence we close the CIRP. Ld. Counsel for the appellant has undertaken to pay the fee of the IRP and expenses incurred by the IRP within two weeks from today."

10. The fact remains that the closure of the CIRP based upon the accepted terms of settlement, only aids the process of helping a Corporate Debtor to remain in operation, thereby achieving the object of the I & B Code of maximisation of value of the Corporate Debtor, instead of putting it to face the CIRP or liquidation, which is not the intention of the I & B Code. In that eventuality, as the Learned Counsel for the parties have agreed that the instant Company Appeal may be closed in terms of the settlement dated 07.06.2026, which has been placed on record, before this Appellate Tribunal in IA No.838/2026, and which is now taken on record and as the settlement has been arrived at prior to the order of the CIRP, and the Operational Creditor, is agreeable to the terms of settlement, the instant

Comp App (AT) (CH) (Ins) No.295/2026 would stand allowed. The impugned order of 08.06.2026, as rendered in CP(IB) No.38/9/AMR/2025, would stand quashed, and the Company Appeal would stand disposed of in terms of the settlement agreement dated 07.06.2026. Further, the Appellant undertakes before this Appellate Tribunal that it would be strictly abide by the terms of the settlement as per the undertaking given in the settlement agreement. Accordingly, the Company Appeal stand disposed of. Pending interlocutory applications, if any, would stand closed.

[Justice Sharad Kumar Sharma]
Member (Judicial)

[Jatindranath Swain]
Member (Technical)

VG/MS/AK