

NATIONAL COMPANY LAW APPELLATE TRIBUNAL,**Principal Bench, New Delhi****Comp. App. (AT) (Ins) No. 1281 of 2022****IN THE MATTER OF:****Harsh Vardhan Dhakkad****...Appellant****Vs.****VRR Financial Services Pvt. Ltd. & Anr.****....Respondents****Present:****For Appellant: Mr. Soayib Qureshi & Mr. Devansh Jain, Advocates.****For Respondent: Mr. Shivansh Soni for R1
Mr. Videh Vaish, Mr. Loukesh Batra, Adv. For R2.****O R D E R****Per: Justice Rakesh Kumar Jain (Oral)**

17.04.2023: This appeal is directed against the order dated 14.10.2022 passed by the 'Adjudicating Authority' (National Company Law Tribunal, Indore Bench), by which a petition bearing TP 104 of 2019 (MB) CP (IB) 613 of 2018 filed by the Financial Creditor under Section 7 of the 'Insolvency and Bankruptcy Code, 2016' (in short 'Code'), R/w Rule 4 of the 'Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules 2016', has been admitted. Navin Khandelwal was appointed as Interim Resolution Professional (IRP) and the Adjudicating Authority directed the Financial Creditor to pay an advance of Rs. 1,00,000/- to the IRP within two weeks from the date of receipt of the order.

2. However, the order dated 14.10.2022 was challenged before this Tribunal by way of the present appeal in which the following order was passed on 20.10.2022:

“20.10.2022: Learned Counsel for the Appellant submits that Section 7 Application was filed for an amount of Rs. 37,17,582/-. It is submitted that Corporate Debtor has raised various pleas opposing Section 7 Application including ground of limitation, no financial debt and other pleas. It is further submitted that Corporate Debtor is solvent Company which has turnover of more than average Rs. 14 Crores. It is submitted that Appellant is ready to deposit the entire amount to show his bona fide.

2. Let the Appellant deposit the amount of Rs. 37,17,582/- by a draft drawn in the name of ‘Pay and Accounts Officer’ Ministry of Corporate Affairs within two weeks.

3. Learned Counsel for the Respondent No. 1 accepts notice. He may file Reply within three weeks. Issue notice to Respondent No. 2 through Speed Post as well as Email. Requisites along with process, if not filed, be filed, within two days. Respondent no. 2 may also file Reply within three weeks. Learned Counsel for the Respondent No. 1 may file Vakalatnama during the course of the day.

4. List this Appeal on 07th December, 2022. Till the next date, IRP shall continue to verify and collate the claims but shall not take any further steps in the Corporate Insolvency Resolution Process.”

3. It is submitted by counsel appearing on behalf of the IRP that publication was done by him on 17.10.2022 for inviting the claims.

4. Be that as it may, while this matter was pending before this Tribunal, the parties entered into an out of court settlement on 03.04.2023. The Appellant has now filed an application bearing IA No. 1520 of 2023 for setting aside the impugned order on the basis of the Settlement Agreement dated 03.04.2023. The Settlement Agreement is also appended with the application in which it is averred *“That the Financial Creditor hereby confirms, agrees and declares that the parties are mutually settled their claims and disputes and as on date there is no amount which is due and payable to the Financial Creditor”*.

5. The Appellant has also appended the affidavit of Rajesh Vyas son of Late Shri Bal Krishna Vyas, Authorized Representative of the VRR Financial Services

Pvt. Ltd in which it is averred that *“I, on behalf of VRR Financial Services Pvt. Ltd., hereby give my consent for setting aside the CIRP initiated against Pegasus Retail India Pvt. Ltd. and the order dated 14.10.2022 passed by the Hon’ble National Company Law Tribunal Indore in TP 104 of 2019 (CP (IB) 613 of 2018. I further state that I have no objection if the amount of Rs. 37, 17,582/- deposited by Mr. Harshvardhan Dhakad for the benefit of Pegasus Retail India Pvt. Ltd. with the Hon’ble National Company Law Appellate Tribunal, Delhi in compliance of the order dated 20.10.2022 passed by the Hon’ble Appellate Tribunal in CA(AT) (Ins) No. 1281 of 2022 is released to him upon directions of the Hon’ble Appellate Tribunal. I further state that VRR Financial Services Pvt. Ltd. has no claim upon the said amount.”*

6. It is further averred in the application that while setting aside the impugned order, the Settlement may be made a part of the order and the amount deposited by the Appellant in terms of the order dated 20.10.2022 may be reimbursed or released to the Appellant. Counsel for the Financial Creditor and Counsel for the IRP have not raised any dispute about the settlement. However, counsel for the IRP has submitted that so far he has not been paid the amount of Rs. 1 lakh as directed by the Adjudicating Authority.

7. After hearing counsel for the parties and taking into consideration the aforesaid facts and circumstances, since the matter has been settled between the parties in terms of the Settlement Agreement dated 03.04.2023, therefore, the present appeal is hereby allowed and the impugned order is set aside. The Settlement Agreement is made part of the order and *‘Pay and Accounts Officer’*

Ministry of Corporate Affairs is directed to release the amount of Rs. 37,17,582/- through RTGS/NEFT to the Appellant within 30 days from the date of passing of this order. The Appellant is directed to provide the bank account number in which the amount is to be transferred, to the Pay and Accounts Officer, Ministry of Corporate Affairs, for the purpose of reimbursement. Before parting, the Financial Creditor is also directed to pay Rs. 1 lakh to the IRP within a period of 30 days from the date of passing of this order.

[Justice Rakesh Kumar Jain]
Member (Judicial)

[Dr. Alok Srivastava]
Member (Technical)

Raushan/Ravi