

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL,**  
**Principal Bench, New Delhi**

**Comp. App. (AT) (Ins) No.173 of 2020 &**  
**IA No.430, 2756 of 2020 & 2864 of 2023**

**IN THE MATTER OF:**

**Aditya Sikdar & Anr.**

**...Appellant**

**Vs.**

**Allahabad Bank & Anr.**

**....Respondents**

**Present:**

**For Appellants : Mr. Abhijeet Sinha, Mr. Aditya Shukla, Cs Suhita Mukhopadhyay,**

**For Respondent : Mr. Ashish Choudhary, Mr. Akash Tandon, Mr. K.Sheth, Adv. for R1.**

**Mr. Anuj Tiwari, Adv for RP**

**O R D E R**

**Per: Justice Rakesh Kumar Jain (Oral)**

**11.07.2023:** This appeal is directed against the order dated 13<sup>th</sup> December, 2019, passed by the National Company Law Tribunal, Kolkata Bench (hereinafter referred as to ‘the Adjudicating Authority’) by which an application bearing CP(IB) No. 482/KB/2018 filed by the Financial Creditor (Allahabad Bank) under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as to ‘The Code’) against the Corporate Debtor (M/s.Kaiser Oils Pvt. Ltd.) for the resolution of a debt of Rs. 71,66,22,658/-, was admitted and Saurabh Basu was appointed as IRP.

2. During the pendency of this appeal, on 27.03.2023, the Sole Member of the CoC gave his consent for settlement on the basis of One Time Settlement

(OTS). The OTS amount was subsequently paid and in this regard the Indian bank issued a letter to the Corporate Debtor in which the following averments have been made:



**NO DUE CERTIFICATE  
(FOR LOANS CLOSED UNDER OTS)**

Date: 28.03.2023

To,  
M/s Kaaiser Oil Pvt Ltd  
P-79, CIT Road, 2<sup>nd</sup> Floor  
Kolkata - 700014

Sir,

**Sub: Loan Account No(s) 50028192290, 50028708500, 50048489572, 50160203710, 50160204588, 50166109462 of M/s Kaaiser Oil Pvt Ltd with our Branch - reg.**

We wish to inform that in the above borrowal accounts, pursuant to the OTS / compromise offered by borrower/guarantor/mortgagor, bank agreed to receive a sum of Rs.17.99 Crores (Rupees Seventeen Crore Ninety Nine Lacs Only) towards full and final settlement of the outstanding in civil liability of the subject borrowal account viz Rs.114.85 Crores (Rupees One Hundred Fourteen Crore Eighty Five Lacs Only) involving sacrifice of Rs.96.86 Crores (Rs. Ninety Six Crores Eighty Six Lacs only). Accordingly the OTS / compromise amount of Rs.17.99 Crores (Rupees Seventeen Crore Ninety Nine Lacs only) has been paid in full and as on date there is no dues to the Bank in the subject account M/s Kaaiser Oil Pvt Ltd. This NOC is issued subject to withdraw of all suits/writs/legal proceedings/claims/demands including the suit for damages filed in any court/forum against the bank/its officials.

Yours faithfully,

  
Branch Manager



3. The RP has filed an application bearing IA No. 2864 of 2023 under Rule 11 of the NCLAT Rules, 2016 for closure of Corporate Insolvency Resolution Process (CIRP) in terms of the settlement arrived at between the parties and also recorded in the minutes of the CoC. In this application, counsel for the RP has pointed out that the CoC had passed the resolution on 23.05.2023 which read as under:

*“The CoC passed the following resolution:*

*Resolved that in pursuance of Sec 12A of the Insolvency and Bankruptcy Code 2016 (IBC 2016) read with Regulation 30A(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and other applicable provisions or rules with its all modification(s) or amendment(s) in future, the Committee of Creditors, consisting only sole financial creditor i.e., Indian Bank with 100% voting right of M/s. Kaaiser Oils Pvt. Ltd. be and hereby give their consent to the approval of the appropriate Adjudicating Authority/Appellate Authority and other regulatory bodies if any.”*

4. He has further submitted that there were two Operational Creditors, namely, Employees State Insurance Corporation and Office of the Joint Commissioner, Commercial Taxes Lalbazar Charge, to whom their amount has been paid through Challan(s). Details of the said payment is given as under:

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The claimed of the Operational Creditors and the amount paid through Challan(s) were as under

SL No	Date of Claim received	Name of Creditors	Complete Address with email	Amount claimed by the Creditors Rs.	Amount admitted Rs.	Amount Paid & Challan No (as provided Promoter Director of M/s Kaaiser Oils Pvt Ltd)	
						Challan No	Amount (Rs)
1.	11.01.2020	Employees' State Insurance Corporation	5/1 Grant Lane ,Kolkata-700012	1005	1005	041201	548
						030768	
						51	
						041231	457
						116315	68
						<b>Total</b>	<b>1005</b>
2.	16.01.2020	Office of the Joint Commissioner, Commercial Taxes, Lalbazar Charge	14, Beliaghata Road, Kolkata -700015	23602.60	23602.60	Challan No(GR N)	Amount (Rs.)
						192014	4717
						150005	
						203921	
						192023	16798
						240015	
						014311	
						192023	2088
						240065	
						457951	
						<b>Total</b>	<b>23603</b>

The COC noted that the all dues of the operational creditors were settled.

5. It is further submitted that no dues are pending towards CIRP Cost as on date and in this regard, averment has been made in para 5 of the said application itself which reads as under:

*“5.The Applicant states that no dues is pending towards CIRP Cost as on date”*

6. On the basis of the aforesaid averments and evidence, Counsel for the RP has submitted that the application bearing IA No. 2864 of 2023 may be allowed and the CIRP initiated against the Corporate Debtor by the impugned order dated 13<sup>th</sup> December, 2019 in CP(IB) No. 482/KB/2018 passed by the Adjudicating Authority, may be closed.

7. We have heard counsel for the parties and after examining the aforesaid facts and circumstances of the case, the application bearing IA No. 2864 of 2023 is hereby allowed and the CIRP proceedings of the Corporate Debtor, initiated vide impugned order dated 13<sup>th</sup> December, 2019, is hereby closed.

8. As a result thereof, the present appeal has become infructuous. No order as to costs.

**[Justice Rakesh Kumar Jain]**  
**Member (Judicial)**

**[Naresh Salecha]**  
**Member (Technical)**

*Raushan/Ravi*