

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI
Company Appeal (AT) (Insolvency) No. 932 of 2022

IN THE MATTER OF:

Manoj Kumar Jain

...Appellant

Versus

State Bank of India & Anr.

...Respondents

Present:

For Appellant:

Mr. Abhijeet Sinha, Mr. Kumar Anurag Singh, Mr. Ashish Choudhary, Mr. Zain A Khan, Advocates

For Respondent:

**Mr. PBA Srinivasan, Mr. Aravind, Ms. Srishti Bansal, Advocates
Mr. Kushal Bansal, Ms. Nidhi Yadav, Advocates for R-2
Ms. Indrani Mukherjee, Advocate for IDBI Bank**

ORDER

18.04.2023: Heard Learned Counsel for the Appellant.

This appeal has been filed against the order dated 18.07.2022 by which order on the application filed by the State Bank of India (SBI) u/s 7 the Adjudicating Authority has admitted the Section 7 application. When the appeal was heard, this Tribunal passed the following order on 05.08.2022:-

“Mr. Abhijeet Sinha, learned Counsel for the Appellant submits that financial assistance was taken by the Appellant from the consortium of Bank in which the Central Bank of India is the lead bank. It is submitted that all other banks of

the consortium entered in O.T.S. with the Appellant and it is only the State Bank of India which has not accepted the OTS offered by the Appellant. It is also submitted that the Appellant is taking steps to settle the dues of SBI and shall make one more effort. It is submitted that if Committee of Creditors is constituted, in pursuance of the impugned order, settlement with some of the Banks shall be in jeopardy.

Let notices be issued on Respondents by Speed Post. Requisites along with process fee, if not filed, be filed by within three days. If the Appellant provides the e-mail address of Respondents, let notices be also issued through e-mail. Company Appeal (AT)(Insolvency) No. 932 of 2022 Page 2 of 2 Reply Affidavit be filed within two weeks and Rejoinder, if any, be filed two weeks thereafter.

List the matter on 6th September, 2022.

In the meantime, IRP, in pursuance of the impugned order, shall ensure that the Corporate Debtor continues as going concern. However, till

the next date of hearing, IRP shall not constitute CoC”.

2. An IA has been filed being an IA No. 1566/2023 by which the ‘One Time Settlement’ (OTS) order issued by SBI dated 12.04.2023 has been brought on record where the Bank has accepted the OTS offer of Rs. 81 crore given by the Appellant.

3. Learned Counsel for the Bank submits that it does not dispute that the OTS has been accepted, however, he submits that in the event the default is committed by the Appellant in payment, Bank should be given the liberty to make an application for reviving the CIRP proceedings.

4. Learned Counsel for the IDBI Bank submits that IDBI bank, dues has not been yet settled.

5. Learned Counsel for the Appellant submits that Appellant shall take steps with the IDBI Bank for settlement of the dues failing which it shall be open for the IDBI Bank to take its own proceedings in accordance with law.

6. Taking into consideration of the aforesaid facts including the OTS order issued by the SBI, the order dated 18.07.2022 is set aside. The CIRP proceedings are closed with the liberty to the Bank to make an application for revival if

occasion so arises. With regard to fees of the IRP, Learned Counsel for the Appellant submits the Appellant shall sit with the IRP and shall pay the relevant dues of the IRP.

With these observations we close this Appeal.

**[Justice Ashok Bhushan]
Chairperson**

**[Mr. Barun Mitra]
Member (Technical)**

ss/nn