

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

Company Appeal (AT) (Insolvency) No. 754 of 2023

IN THE MATTER OF:

Growel Feeds Pvt. Ltd.

...Appellant

Versus

Ashadeep Aquaculture Pvt. Ltd.

...Respondent

Present:

For Appellant:

For Respondent:

ORDER

03.07.2023: This Appeal has been filed by the Appellant challenging the Order of the Adjudicating Authority by which Restoration Application No. 01 of 2023 to restore the Company Petition has been rejected.

2. In the Company Petition filed under Section 9 of I&B Code, 2016, a settlement took between the parties and by order passed by the Adjudicating Authority on 13th September, 2022, matter was disposed of. And following order was passed by the Adjudicating Authority:

“Ld. Counsel Ms. M. Tripathy appears on behalf of the petitioner.

Respondent is represented by Ld. Counsel Mr. S.K. Acharya. Both the counsel jointly submit that the matter has been amicably settled out of court and in this regard settlement memo has been filed. Accordingly, the matter is disposed of as settled out of court.”

3. Subsequent to the said order, it appears that settlement terms were not honoured by the Corporate Debtor. On the breach being committed, an application was filed to revive the CIRP. The Adjudicating Authority has taken

the view that there is a fresh cause of auction to take appropriate action against the party concerned which has been observed in Paragraph 9 of the Order. It is further stated that Adjudicating Authority in its order dated 13th September, 2022 in spite of request to grant liberty to revive has negavitated the said request hence the revival cannot be granted.

4. We are of the view that in the facts of the present case, especially when the liberty sought by the memo was not granted by the Adjudicating Authority the course open for the Appellant was to file a fresh application under Section 9 of the Code and the Adjudicating Authority did not commit any error in refusing to revive the earlier Company Petition.

With these observations, we dispose of this Appeal.

[Justice Ashok Bhushan]
Chairperson

[Mr. Barun Mitra]
Member (Technical)

Basant/nn