

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

Company Appeal (AT) (Insolvency) No. 606 of 2022

IN THE MATTER OF:

Ashwani Kumar Chandrakar

...Appellant

Versus

Central Bank of India & Ors.

...Respondents

Present:

For Appellant: Ms. Anitha S Henoyi, Sr. Advocate with Mr. Ajay Marwah, Mr. Adhitya Srivasan, Mr. Rishabh Kanojiya, Mr. Karan Thakur, Advocates

For Respondent: Mr. Brijesh Kumar Tamber, Mr. Prateek Kushwaha, Advocates for Indian Bank

Mr. Abhijeet Sinha, Mr. Akshay Goel, Advocates for R-1

Mr. Sumeer Sodhi, Mr. Dhruv Wadhwa, Advocates for R-3&4.

Mr. Arun Kathpalia, Sr. Advocate with Mr. Kunal Kanungo, Mr. Aditya Dhupar, Advocates for Intervener.

Mr. Nipun Gautam, Advocate for IRP

ORDER

28.03.2023: Heard Learned Counsel for the parties.

2. This Appeal has been filed against the Order dated 06th May, 2022 by which Order Application under Section 7 of I&B Code, 2016 filed by the Central Bank of India was admitted. The Central Bank of India has filed Section 7 Application claiming total amount of Rs. 27.67 Crores as its dues.

3. Appeal was taken by this Tribunal and an Order was passed on 27th May, 2022 which is to the following effect:

“27.05.2022: Issue notice. Learned counsel for the Appellant submits that the Appellant’s hospital namely Chandulal Chandrakar Memorial Medical College, District Durg has been acquired by the State Act 15 of 2021 which enactment has been published in the Gazette on 03.09.2021. It is submitted that in view of the compulsory nature of the acquisition, the Government is likely to pay two times of the valuation of the assets of the Corporate Debtor. It is submitted that the process requires some time and it is expected that valuation shall be completed and amount will be paid which shall be sufficient to clear the dues of the Central Bank of India. On the application under Section 7 filed by the Central Bank of India, the Adjudicating Authority has initiated insolvency resolution process by order dated 06. 05.2022.

Learned counsel for the Interim Resolution Professional (IRP) submits that the IRP has taken possession of other assets except the acquired hospital.

Mr. Abhijeet Sinha, learned counsel appears for the Central Bank of India and submits that the Bank’s dues are much more than the expected amount which will be received from the Government.

Let reply be filed within three weeks. Rejoinder be filed within two weeks thereafter.

List this Appeal on 19.07.2022.

In the meantime, the Interim Resolution Professional shall proceed and ensure that the Corporate Debtor continues as going concern, however, he shall not constitute the CoC in pursuance of order dated 06.05.2022.”

4. In the Section 7 Application proceedings, the claim of another Bank i.e. Indian Bank filed claim of Rs. 56 Crores. An affidavit has been filed by the Appellant where it has been stated that State Government has already released the amount of Rs. 90 Crores and they have yet to release some more amount. It is submitted that the appellant has entered into One Time Settlement with both the Banks and Banks have accepted One Time Settlement.

5. Learned Counsel for the Appellant has referred to Letter dated 24th March, 2023 of Central Bank of India and Letter dated 24th March, 2023 issued by the Indian Bank. The Appellant submits that Settlement with Central Bank of India has been entered for an amount of Rs. 37 Crores and with Indian Bank for an amount of Rs. 53 Crores. It is submitted that money is already in Fixed Deposit.

6. In view of the One Time Settlement, it would be open for the Banks to appropriate the amount.

7. Mr. Arun Kathpalia, Learned Sr. Counsel has referred to an Order passed by the Hon'ble High Court of Chhattisgarh at Bilaspur in Writ Petition (C) No. 4014 of 2022 in the matter of G.D.R. Educational Foundation Rungta Bhawan & Anr. Vs. State of Chhattisgarh & Ors. It is submitted that the order has been passed by the High Court on 13.03.2023 where direction has been issued for keeping the amount of Rs. 36,95,94,000/- in Fixed Deposit. It is submitted by

Learned Counsel for the Appellant that said order has already been complied by the State Government.

8. We take note of the aforesaid submission and take it on record.

9. In view of the One Time Settlement with both the Banks, no purpose is left for continuing the Corporate Insolvency Resolution Process (CIRP in short). In view of the aforesaid, we set aside the order impugned passed by the Adjudicating Authority dated 06.05.2022. Corporate Debtor is freed from CIRP. Learned Counsel for the IRP submits that Central Bank of India has undertaken to pay dues of the IRP. The appeal is disposed of accordingly.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

Basant/nn