

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 457 of 2018

IN THE MATTER OF:

G. Rama Manohar Reddy

...Appellant

Vs.

SEI Trading India Pvt. Ltd. & Anr.

...Respondents

Present: For Appellant: - Mr. Rakesh Kr. Khanna, Senior Advocate with Mr. Sudhir Naagar, Advocate.

For Respondents: -Mr. Mirza Aslam Beg and Ms. Chandni Arora, Advocates.

O R D E R

19.09.2018— This appeal has been preferred by Mr. G. Rama Manohar Reddy, Shareholder of 'M/s. Aishwarya Technology & Telecom Limited'- ('Corporate Debtor') challenging the order dated 31st July, 2018 passed by the Adjudicating Authority (National Company Law Tribunal), Hyderabad Bench, Hyderabad, whereby and whereunder, the application under Section 9 of the Insolvency and Bankruptcy Code, 2016 ('I&B Code' for short) preferred by the Respondents- 'SEI Trading India Private Limited' has been admitted, order of 'Moratorium' has been passed and 'Interim Resolution Professional' has been appointed.

2. The appeal was preferred on the ground that there was a pre-existing dispute as Civil Suit O.S. No. 492 of 2017 was pending before the Senior Civil Judge, City Civil Court, Hyderabad.

3. Today when the matter was taken up, it was brought to our notice that the parties have reached settlement and settlement deed has been signed by the parties on 18th September, 2018.

4. Learned counsel appearing on behalf of the Respondent no. 1 while do not dispute that Civil Suit between the parties was pending prior to issuance of notice under Section 8 (1) of the 'I&B Code', also accepts that the Respondent no.1 has settled the matter with the Appellant. In view of the aforesaid position, the impugned order dated 31st July, 2018 passed by the Adjudicating Authority is set aside.

5. In effect, order (s), passed by the Adjudicating Authority appointing any 'Resolution Professional', declaring moratorium, freezing of account, and all other order (s) passed by the Adjudicating Authority pursuant to impugned order and action, if any, taken by the 'Resolution Professional', including the advertisement, published in the newspaper calling for applications all such orders and actions are declared illegal and are set aside. The application preferred by Respondent no.1 under Section 9 of the I&B Code, 2016 is dismissed. Learned Adjudicating Authority will now close the proceeding. The appellant 'Corporate Debtor' (company) is released from all the rigour of law and is allowed to function independently through its Board of Directors from immediate effect.

6. The Adjudicating Authority will fix the fee of the 'Resolution Professional' and the 'Corporate Debtor' will pay the fees for the period he has functioned. The appeal is allowed with aforesaid observation and direction. However, in the facts and circumstances of the case, there shall be no order as to cost.

Let the copy of the Settlement Deed be kept on record.

(Justice S.J. Mukhopadhaya)
Chairperson

(Justice Bansi Lal Bhat)
Member(Judicial)

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