

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Ins) No.96 of 2020

[Arising out of Order dated 06.01.2020 passed by National Company Law Tribunal, New Delhi (Court No.IV) in Company Petition No.IB-1584/ND/2019]

IN THE MATTER OF:

Before NCLT

Before NCLAT

Mr. D.S. Reddy
Partner,
DSTR Infrastructure
& Projects LLP,
L II-143B LIG Flat
Kalkaji New Delhi
South Delhi
DL 110019

....

Appellant

Versus

- | | | |
|---|----------------------------------|-----------------|
| 1. Eco Drilling Fluids
Pvt. Ltd.
Unit No. 04, G.F.,
Bldg No.01, C-2 Type,
Sector 2,
Opp. Abbott Hotel,
Vashi-Navi Mumbai-400703 | Applicant/
Operational Debtor | Respondent No.1 |
| 2. Mr. Dharm Vir Gupta
Interim Resolution
Professional,
D-701,
Antriksh Apartment,
Plot No.26,
Sector – 4, Dwarka,
South West,
Delhi – 110078 | IRP | Respondent No.2 |
| 3. DSTR Infrastructure
& Projects LLP
Through Interim Resolution
Professional,
L II-143B LIG Flat
Kalkaji New Delhi
South Delhi - 110019 | Respondent/
Corporate Debtor | Respondent No.3 |

For Appellant: Shri Mukesh Rana and Ms. Mamta, Advocates

For Respondents: Ms. Shradha Agrawal, Advocate (R-1)
Ms. Prachi Johri, Advocate for RP (R-2)

O R D E R

03.03.2020 Respondent No.1 – Operational Creditor filed Application under Section 9 of Insolvency and Bankruptcy Code, 2016 (IBC – in short) before the Adjudicating Authority [National Company Law Tribunal, New Delhi (Court No.IV)] in Company Petition No.IB-1584/ND/2019 and the same was admitted on 6th January, 2020.

2. Against such admission of the Application, present Appeal has been filed by Mr. D.S. Reddy, partner of the LLP – Respondent No.3 (Corporate Debtor).

3. It is now stated that the Operational Creditor and the Appellant have settled the dispute between the parties and on behalf of the Corporate Debtor, payment has been made of the dues of the Operational Creditor. Advocate – Shri Mukesh Rana refers to Application filed vide Diary No.19251 with the Compromise Deed [Annexure – 1 (colly)]. The Advocate on behalf of the Operational Creditor – Ms. Shradha Agrawal is present and she states that the Operational Creditor has received all the amount of the dues and nothing remains to be received, and wants to withdraw the Original Application.

4. The Learned Counsel for IRP (Interim Resolution Professional) states that COC (Committee of Creditors) is yet not constituted. She states that if the parties are settling the dispute, the CIRP (Corporate Insolvency Resolution

Process) costs and fees of IRP may be paid. It is stated that when the proceeding was initiated, Rs.2 Lakhs were paid to the IRP.

5. Considering Judgement of the Hon'ble Supreme Court in the matter of **"Swiss Ribbons Pvt. Ltd. & Anr. vs. Union of India & Ors."** reported as 2019 SCC OnLine SC 73, in exercise of powers under Rule 11 of National Company Law Appellate Tribunal Rules, 2016, we accept the request made by the Counsel for Appellant and Counsel for Respondent No.1. The request of Respondent No.1 is that the Respondent No.1 wants to withdraw the original Application filed under Section 9 of IBC, in view of the settlement reached by the parties.

6.(A) For reasons stated, the Appeal is allowed.

(B) The Impugned Order is quashed and set aside. Respondent No.1 is permitted to withdraw the original Application filed before the Adjudicating Authority.

(C) Actions taken by IRP/RP in consequence of the Impugned Order are quashed and set aside. The Corporate Debtor is released from the rigour of law and is allowed to function independently through its Board of Directors. The IRP/RP will hand back the records and management of the affairs of Corporate Debtor, to the Board of Directors.

(D) The IRP/RP will place particulars regarding CIRP costs and balance fees before the Adjudicating Authority. The Adjudicating Authority may consider the same and approve reasonable CIRP costs including fees and direct the

Corporate Debtor to pay the same to the IRP in a time to be specified by the learned Adjudicating Authority. In case of default, parties would be at liberty to move this Tribunal for recall of the present Order.

The Appeal is disposed accordingly.

[Justice A.I.S. Cheema]
Member (Judicial)

(Justice A.B. Singh)
Member (Judicial)

[Kanthi Narahari]
Member (Technical)

/rs/md