

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Ins) No.84 of 2020

[Arising out of Order dated 06.11.2019 passed by National Company Law Tribunal, New Delhi (Court No.IV) in Company Petition No. IB-684/ND/2019]

IN THE MATTER OF:

Before NCLT

Before NCLAT

Chunilal Kanjibhai Gohel
Director of Paadam
International Hotels Pvt. Ltd.
8-th New Rebriwasa Veraval,
Somnath Gir – 362265

Appellant

Versus

1. M/s. Indian Corp Law
Anantprabha LGF,
C-154, Sector – 51,
Noida – 201301

Applicant/
Operational Creditor

Respondent No.1

2. Paadm International
Hotels Pvt. Limited
L-7, S/F Rajouri Garden,
New Delhi – 110027

Respondent/
Corporate Debtor

Respondent No.2

3. M/s. Rashmi Agarwalla
O-701 Green Valley
Apartments,
Plot No.18, Sector 22
Dwarka – 110075

Respondent No.3

For Appellant:

Counsel appeared but did not mark appearance

For Respondents:

Ms. Priyanshu, Advocate (R-1)
Shri Sabhay Choudhary, Advocate (R-3)

ORDER

07.02.2020 Heard Counsel for the Appellant. The Appeal has been filed against admission of Application under Section 9 of Insolvency and Bankruptcy Code, 2016 (IBC – in short) which was filed by Respondent No.1 – M/s. Indian Corp Law. Advocate – Ms. Priyanshu is present on behalf of Respondent No.1 and states that after the Application under Section 9 was admitted on 6th November, 2019, the Appellant had contacted the Operational Creditor and the dues of the Operational Creditor were cleared on 15th January, 2020 by making payment through RTGS regarding which the Affidavit has been filed vide Diary No.18647. The Appeal was filed on 12th December, 2019 and on 20th January, 2020, this Tribunal had directed the IRP not to constitute Committee of Creditors.

2. The learned Counsel for the Respondent No.1 states that the Respondent No.1 is willing to withdraw the original Application filed under Section 9 as the Respondent No.1 has received its dues. The learned Counsel for the IRP accepts that he has not received any other claims of any other debtors. It is accepted that COC has not been constituted.

3. It is stated that one claim, which was received, was rejected for want of documents. Learned Counsel for IRP states that the IRP has incurred CIRP costs and his fees are to be settled.

4. In view of the Affidavit filed by the Respondent No.1 and after hearing the parties, exercising powers under Rule 11 of National Company Law Appellate Tribunal Rules, 2016, we set aside Impugned Order and permit

Respondent No.1 to withdraw the Application under Section 9 of IBC. The Application shall stand disposed as withdrawn.

5. The Impugned Order is quashed. 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. The IRP/RP will place particulars regarding CIRP costs and fees before the Adjudicating Authority and the Adjudicating Authority after examining the same, will direct the Corporate Debtor to pay the same in time to be specified by the 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/gc