

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 552 of 2020

IN THE MATTER OF:

Vivek Bansal

...Appellant

Versus

Burda Druck India Pvt. Ltd. & Anr.

...Respondents

Present:

For Appellant : Mr. Sameer Abhyankar, Advocate

**For Respondents : Mr. Susmit Pushkar, Advocate for R-1
Mr. S. Mohammed Raiz, IRP
Mr. Subhash Gulati and Mr. Diwakar Maheshwari,
Advocates for R-2**

O R D E R
(Through Virtual Mode)

14.07.2020 I.A. No. 1534 of 2020 has been filed by the Appellant in terms of Rule 11 of the National Company Law Appellate Tribunal Rules, 2016 for recording the settlement arrived at between the parties. Copy of the settlement dated 7th July, 2020 entered, *inter se*, the Appellant and Respondent No. 1 is annexed thereto. It is submitted that the 'corporate insolvency resolution process' was commenced at the instance of the Respondent (Operational Creditor) in terms of the impugned order dated 27th May, 2020 passed by the Adjudicating Authority (National Company Law Tribunal), New Delhi Bench –V with consequential orders in the nature of slapping of the moratorium and appointment of 'Interim Resolution Professional'. However, the parties have amicably settled the dispute and the 'Corporate Debtor' has agreed to accept the amount of Rs.4,25,00,000/- (Rupees Four Crores and Twenty Five Lakhs Only) towards full and final settlement of all claims. The 'Settlement Agreement' incorporates the terms of settlement and the mode of payment at paragraph 3

and 4 thereof. The execution and the contents of the 'Settlement Agreement have been admitted by the parties.

As the parties have reached the settlement and the 'Committee of Creditors' was not constituted, in exercise of powers conferred under Rule 11 of the NCLAT Rules, 2016, we set aside the impugned order dated 27th May, 2020 passed in '*C.P. No. IB 2223 (ND)/2019*' and allow exit from the 'corporate insolvency resolution process' which is permissible in terms of the verdict of the Hon'ble Apex Court in '***Swiss Ribbons Pvt. Ltd. & Anr. vs. Union of India & Ors.***' – (2019) 4 SCC 17). The matter is accordingly disposed of in terms of the 'Settlement Agreement' between the parties.

In effect, order (s) passed by Ld. Adjudicating Authority appointing 'Interim Resolution Professional', declaring moratorium and all other order (s) passed by Adjudicating Authority pursuant to impugned order and action taken by the 'Resolution Professional' are set aside. The application preferred by the Respondent under Section 9 of the I&B Code is disposed of as withdrawn. The Adjudicating Authority will now close the proceeding. The Respondent Company is released from all the rigour of law and is allowed to function independently through its Board of Directors with immediate effect.

So far as the fee and expenses incurred by the Resolution Professional is concerned, we find that grossly inflated claim has been set up which is unwarranted. Having regard to the fact that the constitution of the 'Committee of Creditors' had been put on hold on 17th June, 2020 and the fact that the 'Interim Resolution Professional' worked for not more than one and a half month, we deem it appropriate to fix the fee and 'corporate insolvency resolution process

cost’ at a consolidated amount of Rupees Seven Lakhs (inclusive of Rupees Two Lakhs, which has already been paid by the ‘Operational Creditor’) to be borne by both the parties in terms of the settlement agreement in equal proportion.

We make it clear that in the event of default not adhering to the terms of ‘Settlement Agreement’ as regards the payment of the outstanding instalments, the ‘Operational Creditor’ shall be at liberty to seek revival/restoration of the ‘corporate insolvency resolution process’ proceedings before the Adjudicating Authority.

The appeal is accordingly disposed of. No order as to costs.

[Justice Bansi Lal Bhat]
Acting Chairperson

[Justice Anant Bijay Singh]
Member (Judicial)

[Dr. Ashok Kumar Mishra]
Member (Technical)

/ns/gc/