

National Company Law Appellate Tribunal, New Delhi
Principal Bench
Company Appeal (AT) (Ins) No. 518 of 2021

IN THE MATTER OF:

Kasinathan Lakshmi Srinivasan

...Appellant

Vs.

Masstrans Technologies Pvt. Ltd. & Anr.

...Respondents

Present:

For Appellant:-

Mr. Sudipto Sarkar, Sr. Adv. with Mr. Abhijeet Sinha, Ms. Sonam Chandwani, Advocates

For Respondent:-

Mr. Arun Kathpalia, Sr. Adv. with Krupa Chandra, Advocates for R-1

ORDER
(Through Virtual Mode)

26.07.2021: The Appellant/Applicant filed an Application I.A. No. 1414 of 2021 for seeking certain directions and also filed an Application I.A No. 1417 of 2021 for seeking exemption from filing notarized affidavit.

We have heard Ld. Sr. Counsels for the parties.

Ld. Sr. Counsel for the Appellant submits that after filing of this Appeal, the Respondent No. 1 (Operational Creditor) and Respondent No. 2 (Corporate Debtor) entered into settlement and the parties are finally agreed to settle the matter with a payment of Rs. 1 Cr. 56 Lacs as full and final settlement for the claim of the Operational Creditor and the Respondent No. 2 has paid the settled amount to Respondent No. 1. Pursuant to the settlement, Respondent No. 1 (Operational Creditor) moved an Application under Section 12A of the IBC on 13.07.2021 before Adjudicating Authority. The copy of the Application is filed alongwith the aforesaid Application I.A. No. 1414 of 2021. It is also submitted that under erroneous advice Application under Section 12A was filed as the occasion for filing such Application under Section 12A of the IBC only arises after constitution of the CoC. The CoC has not constituted as yet.

The Adjudicating Authority due to work load could not be taken up the Application for hearing. Therefore, the instant Application is being filed.

It is also submitted that this Appellate Tribunal in exercise of power under Rule 11 of the NCLAT Rules can pass the order for withdrawal of the Application under Section 9 and for termination of the CIRP against the Respondent No. 2 (Corporate Debtor).

The another Application I.A No. 1417 of 2021 is filed for seeking exemption from filing notarized affidavit.

Ld. Counsel on behalf of the Respondent No. 1 (Operational Creditor) is in agreement with the submissions made on behalf of the Ld. Sr. Counsel for the Appellant.

Ld. Counsel for the Appellant stated at bar that the Appellant undertakes to pay IRP's fees and CIRP Costs.

We have considered the submissions of Ld. Sr. Counsels for the parties. The Application for seeking exemption from filing notarized affidavit I.A No. 1417 of 2021 is allowed as the parties have not only settle the matter but in compliance of the settlement made full and final payment to the Respondent No. 1.

The parties have settled the matter and Respondent No. 1 has received through RTGS the total amount of settlement i.e. Rs. 1 Cr. 56 lacs and the Appellant is ready to pay IRP's fees and CIRP Costs.

In such circumstances, we are of the view that this is a fit case for exercising inherent powers under Rule 11 of NCLAT Rules. Hence, for meeting the ends of the justice, we allowed the Application I.A No. 1414 of 2021, in terms of the settlement, we set aside the order dated 09.07.2021 for initiation

of CIRP passed in CP (IB) No. 2066 of 2019 and resultantly terminate the CIRP against the Corporate Debtor (Respondent No. 2). IRP Mr. Vasudev Ganesh Nayak Udipi is directed to hand over the charge of the Respondent No. 2 to the Directors of the Company.

The Appellant is directed to pay IRP's fees and CIRP costs within ten days. In case, the Appellant is failed to comply this order within time frame, the Appellant has to pay ten thousand penalty to IRP alongwith the aforesaid fees and costs.

With the aforesaid, we disposed of this Appeal, however, no order as to costs.

[Justice Jarat Kumar Jain]
Member (Judicial)

[Dr. Ashok Kumar Mishra]
Member (Technical)

sc/md