

NATIONAL COMPANY LAW APPELLATE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 598 of 2021

IN THE MATTER OF:

Ashok G. Rajani

Erstwhile Director-M/s. Seya Industries Ltd.

...Appellant.

Versus

Beacon Trusteeship Ltd. & Ors.

...Respondents.

For Appellant: Mr. Ramji Srinivasan, Sr. Advocate with
Mr. Abhijeet Sinha, Mr. Puneet Jain,
Mr. Christi Jain, Mr. Harsh Jain, Advocates.

For Respondent: Mr. Krishnendu Datta, Sr. Advocate with
Ms. Madhu Suri, Mr. Shikhil Suri,
Advocates for R-1 to R-3.

Mr. Ayush J Rajani, Ms. Khusboo Shah Rajani,
Advocates for RP

Mr. Ravi Raghunath and Aakash Lodha,
Advocates for Intervenor

ORDER
(Virtual Mode)

18.08.2021 Heard Mr. Ramji Srinivasan, Sr. Advocate and Mr. Abhijeet Sinha, Advocate for the Appellant and Mr. Krishnendu Datta, Sr. Advocate for Respondent Nos. 1 to 3-Financial Creditors and Mr. Ayush J. Rajani, Advocate for Resolution Professional.

2. Learned Counsel for the parties state that parties have settled their disputes and they request that the Impugned Order may be quashed due to settlement; that Publication in this matter was stayed and thus there are no other claims. Initially while hearing Counsel we felt that there are no other claimants. However now Mr. Ravi Raghunath, Advocate is present in Virtual Mode and makes a request for permission to file Intervention Application on behalf of Central Bank of India which has an outstanding debt of above Rs. 178 Crores against the Corporate Debtor and the Learned Counsel for the Intervenor is opposing the settlement claiming that the Corporate Debtor cannot settle merely with one of the Creditors.

3. Learned Sr. Counsel for the Appellant and Respondent Nos. 1 to 3 submit that this Court can under Rule 11 of NCLT Rules quash the Impugned Order and accept the Settlement. However, when there are other Creditors we do not wish to interfere here in Appeal and leave it for Adjudicating Authority to deal with the same.

4. Copy of the Impugned Order has been filed and now this Appeal may not be treated as 'With Defects'.

5. Issue notice. Respondents to file Reply-Affidavits within two weeks. Rejoinder, if any, may be filed within a week, thereafter. Parties to file brief 'Written-Submissions' not more than three pages along with 'Copies of Judgments' they want to refer or rely on, within three weeks.

6. The Appellant, Directors, Shareholders of the 'Corporate Debtor' are directed to handover the assets and records of the 'Corporate Debtor' to the 'Interim Resolution Professional' immediately (if not yet handed over). The 'Interim Resolution Professional'/ Resolution Professional will make effort that the Company remains a going concern and will take assistance of the (suspended) Board of Directors and the officers/Director/Employees. The persons who are working will, at present continue to perform their duties, including the paid Directors. The person who is authorized to sign the bank cheques may sign cheques only after authorization of the 'Interim Resolution Professional' with counter signature of the 'Interim Resolution Professional'/ Resolution Professional at the back side of the cheques.

Only in such case, the Bank shall release the payment. The 'Interim Resolution Professional' will place this order before the Banks, in which accounts of 'Corporate Debtor' are maintained. The Bank Account(s) of the 'Corporate Debtor' be allowed to be operated through IRP/RP for day-to-day

functioning of the Company such as for payment of Current Bills of the Suppliers, Salaries and Wages of the employees'/workmen, electricity bills etc.

7. On 10th August, 2021, we had stayed the IRP from issuing publication. We recall that order. The IRP may proceed further with CIRP but, however may not constitute Committee of Creditors till this matter comes up on next date. This time till next date we are giving to the Appellant and Respondents so that if they want to take opportunity before the Adjudicating Authority to settle in terms of Section 12-A of IBC read with Rule 11 of NCLT Rules they may try to settle if they want to do that. If by the next date, Section 12-A of IBC Proceeding is not completed, we may or may not continue with the Interim Orders.

8. It is stated that Application under Section 12-A of IBC is already filed. If the parties have filed or if the parties file Application under Section 12-A of IBC read with Rule 11 of NCLT Rules through IRP or directly to the Adjudicating Authority, the Adjudicating Authority is requested to take up the same at the earliest and decide the same one way or the other as per law.

List the Appeal 'For Admission (After Notice)' Hearing on **13th September, 2021.**

[Justice A.I.S. Cheema]
The Officiating Chairperson

[Mr. V.P. Singh]
Member (Technical)

Basant B./gc.