

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 280 of 2021

IN THE MATTER OF:

**Bhavesh Gandhi, Promoter & Suspended Director
Of Skil Infrastructure Ltd.**

...Appellant

Versus

Amluckie Investment Co. Ltd. & Ors.

...Respondents

Present:

For Appellant: Mr. Abhijeet Sinha, Ms. Bani Dikshit and Mr. Swaroop George, Advocates.

For Respondents: Mr. Sandeep Bajaj and Mr. Devansh Jain, Advocates for R-1.

Mr. Shashi Agarwal, IRP in person, R-3.

ORDER
(Through Virtual Mode)

05.04.2021: One of the issues raised in this appeal preferred against impugned order dated 15th March, 2021 passed by the Adjudicating Authority (National Company Law Tribunal) Mumbai Bench-IV admitting application of Respondent – Financial Creditor under Section 7 of the I&B Code is that the Corporate Debtor has reached settlement with the Financial Creditor and the later has filed application for withdrawal of the application under Section 7 but on account of difficulty including the Adjudicating Authority being inaccessible due to holidays there was some delay in listing. Mr. Abhijeet Sinha, learned counsel for the Appellant submits that in fact the impugned order has been uploaded after the Financial Creditor had filed application for withdrawal.

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Issue notice upon Respondents. Notice on behalf of Respondent No. 1 is waived and accepted by Mr. Sandeep Bajaj, Advocate. Notice on behalf of Respondent No. 2 and 3 is waived and accepted by Mr. Shashi Agarwal, Interim Resolution Professional (IRP) appearing in person. Service being complete, no further notice be issued upon Respondents.

Mr. Shashi Agarwal, IRP informs us that public announcement is yet to be published and Committee of Creditors is yet to be constituted.

Mr. Abhijeet Sinha, learned counsel for the Appellant invites our attention to page 60 to 76 of the appeal paper book to demonstrate that a settlement has been reached between 'Amluckie Investment Co. Ltd.' (Financial Creditor) and 'Skil Infrastructure Ltd.' (Corporate Debtor). Mr. Sandeep Bajaj, learned counsel for the Respondent – Financial Creditor admits the factum of settlement being reached between the parties and Financial Creditors claim being satisfied. It is submitted that in terms of Settlement, the Corporate Debtor is required to pay an amount of Rs.4.40 Crores to the Respondent – Financial Creditor towards full and final satisfaction of its claim. The payment is agreed to be made in instalments. First instalment of Rs.50 Lakhs has already been paid and for the balance amount post-dated cheques have been issued in accordance with the 'schedule of payment' reflected at page 73 of the appeal paper book. Learned counsel for the parties

prays that appeal be disposed off and Corporate Insolvency Resolution Process proceedings be closed.

Having regard to the settlement reached between the parties on 23rd March, 2021 and taking into consideration the fact that public announcement is yet to be made and Committee of Creditors is yet to be constituted, we find no legal impediment in entertaining the settlement as no other creditor has come forward with any claim. We take notice of the factum of settlement and dispose off the appeal by directing closing of the case before the Adjudicating Authority. Corporate Debtor is released from the rigour of Corporate Insolvency Resolution Process. Moratorium will cease to have effect, forthwith. The fee of Interim Resolution Professional is quantified at Rs.1 Lakh (Rupees One Lakh Only) which Mr. Abhijeet Sinha, learned counsel for the Appellant undertakes to cause to be paid within three days.

We make it clear that only part payment has been made towards satisfaction of full and final claim of the Financial Creditor in terms of the Settlement Agreement and the balance payment is agreed to be paid as per the schedule indicated hereinabove. In the event of default on the part of the Corporate Debtor in adhering to the terms of schedule, Respondent – Financial Creditor shall be at

liberty to approach the Adjudicating Authority to reopen the Corporate Insolvency Resolution Process proceedings in accordance with law.

A copy of this order be communicated to the Adjudicating Authority, forthwith.

**[Justice Bansi Lal Bhat]
Acting Chairperson**

**[Dr. Ashok Kumar Mishra]
Member (Technical)**

am/gc