

Case Snippets

Volume 03, Number 30 (July 22, 2020)

Vivek Bansal Vs. Burda Druck India Pvt. Ltd. & Anr.

(Company Appeal (AT) (Insolvency) No. 552 of 2020)
(NCLAT) dated (14.07.2020)

I.A. No. 1534 of 2020 was 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.

In the present case 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.

NCLAT while referring the judgement of Hon’ble Supreme Court passed in the case of ‘Swiss Ribbons Pvt. Ltd. & Anr. vs. Union of India & Ors.’ – (2019) 4 SCC 17) held that 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**).

It was further held that 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 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.

With regards to the fee and expenses incurred by the Resolution Professional it was held that the expenses to be borne by both the parties in terms of the settlement agreement in equal proportion.

Hence, appeal was allowed.

