

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
AT CHENNAI

(APPELLATE JURISDICTION)

Company Appeal (AT) (CH) (Ins) No.235/2023

(IA Nos.757 & 758/2023)

(Under Section 61 of the Insolvency and Bankruptcy Code, 2016)

(Arising out of the Impugned Order dated 20.07.2023 in
CP(IB) No.132/BB/2022, passed by the ‘Adjudicating Authority’
(National Company Law Tribunal, Bengaluru Bench)

In the matter of:

Malavika Hegde,
Suspended Director of Coffee Day Global Limited **... Appellant**

V
IndusInd Bank Ltd. & Anr. **...Respondents**

Present :

For Appellant : Mr. P.H. Arvindh Pandian, Sr. Advocate for
Mr. Pawan Jhabakh, Mr. Abishek Raman, Mr. Jerin
Asher Sojan, Advocates

For Respondents : Ms. Chitra Nirmala, R1

ORDER

(Virtual Mode)

13.09.2023: It is represented on behalf of the Appellant, through Ld. Sr. Counsel Mr. P.H. Arvindh Pandian and the Ld. Counsel for the 1st Respondent/Bank, that a ‘Joint Memo’ dated 07.09.2023 is filed before the Office of the Registry, and the 1st Respondent being the ‘Assignor’, had assigned that ‘Debt’ in favour of ‘ASREC (India Ltd.)’, the ‘CIRP’, between the Appellant

and the 1st Respondent / Bank be terminated, because of the ‘Settlement’, arrived at between the ‘Parties’.

2. Furthermore, a request is made jointly, by the Ld. Counsel appearing for the Appellant and the 1st Respondent/Bank that the ‘Memo’, to the factum of ‘settlement’, having been arrived at between the ‘Parties’, may be taken on ‘Record’ and the ‘CIRP’, against the ‘Corporate Debtor’, be terminated, culminating in the Impugned Order dated 20.07.2023 being set aside, the proceedings in CP(IB)No. 132/BB/2022 (on the file of Adjudicating Authority / Tribunal) be dismissed, eventually.

3. In view of the fact that the ‘settlement’ was arrived at between the ‘Appellant’ and the ‘1st Respondent/Bank’, which is not disputed by the Ld. Counsel for the 1st Respondent/Bank, this Tribunal, takes on Record the ‘memo’ dated 07.09.2023 filed before the ‘Office of Registry of NCLAT’, Chennai and pursuant to the ‘settlement’ being arrived at, ***this ‘Tribunal’ allows the instant Appeal***, by setting aside the impugned order dated 20.07.2023, passed by the Adjudicating Authority / Tribunal in CP(IB)No.132/BB/2022 on the file of ‘NCLT’ Bengaluru Bench and dismisses the main Company Petition. No Costs. All the connected IA No. 757/2023 (for exemption) and IA No. 758/2023 (for stay) are closed.

4. Before parting with the case, this ‘Tribunal’ makes it crystalline clear that the 2nd Respondent / IRP is permitted to file necessary ‘Interlocutory Application’

before the ‘Adjudicating Authority’/’Tribunal’ to lay a claim in respect of ‘CIRP costs’ and his ‘Fee’, and if such application is preferred, before the ‘Adjudicating Authority’/’Tribunal’, then, the Adjudicating Authority/Tribunal, shall dispose of the said application, ofcourse on merits, after providing ‘due opportunities’, to the respective ‘Parties’.

[Justice M. Venugopal]
Member (Judicial)

[Shreesha Merla]
Member (Technical)

ss/kr