

NATIONAL COMPANY LAW APPELLATE TRIBUNAL PRINCIPAL BENCH,
NEW DELHI

Comp. App. (AT) (Ins) No. 322 of 2024
& I.A. No. 1075, 1076, 1077, 2111, 2077, 4550, 4716 of 2024

IN THE MATTER OF:

Aarif Abdul Razak Chunawala

...Appellant

Versus

LPHP Real Estate Pvt. Ltd. & Anr.

...Respondents

Present:

**For Appellant : Mr. Nidesh Gupta, Sr. Advocate along with
Mr. Aman Vachher, Mr. Ashutosh Dubey,
Mr. Dhiraj, Mr. Akshat Vachher, Mr. Abhiti
Vachher, Mr. Amar Khanna, Mr. Gheewala &
Mr. Amit Kumar.**

**For Respondents : Mr. Charles Desouza, Mr. Puneet Gogad, Mr. Pai
Amit, Ms. Pankhuri Bhardwaj, Mr. Kushal Dube &
Ms. Bhavana Duhoon, Advocates for R-1.**

O R D E R
(HYBRID MODE)

25.07.2024 This appeal is directed against the order dated 07.02.2024 by which an application filed under Section 7 of the Insolvency & Bankruptcy Code, 2016 (**'Code'**) by Respondent No. 1 against Respondent No. 2 has been admitted.

2. At the time of issuance of notice, this Tribunal passed the following order on 13.02.2024 :-

“Learned Counsel for the Appellant submits that although Appellant has entered into Settlement with the Financial Creditor for payment of 12 Crores in 2021 however

amount of Rs. 5.50 Crores could be paid and Rs. 6.50 Crores could not be paid out of settlement amount. It is submitted that Appellant accept the liability and intend to pay Rs. 6.5 Crores in reasonable time as allowed by the Court. It is submitted that the Corporate Debtor is a Real Estate Company which is carrying several projects and in event insolvency continues the Appellant shall be put to jeopardy.

2. Learned Counsel for the Respondent submits that Appellant has failed to honour the Settlement, cheques were bounced and in Reply sent by the Appellant it was stated that they will pay within one year from 06.06.2022 but nothing has been paid.

3. Submissions need scrutiny. Issue notice. Learned Counsel appearing for the Respondents accepts notice.

4. Learned Counsel for the Appellant submits that within two weeks they will pay amount of Rs. 2 Crores by a Bank Draft in favour of Respondent and rest within three months from today subject to payment of the amount as permitted above, IRP shall keep the Company as a going concern however shall not take any further steps in the Corporate Insolvency Resolution Process. Appellant shall render all assistance and cooperation to the IRP to keep the Company as a going concern.

5. Learned Counsel for the Appellant seeks liberty and is granted two weeks to file compliance affidavit.

6. Let Reply-Affidavits be filed within two weeks. Rejoinder may be filed within two weeks, thereafter.

List this Appeal on 11th March, 2024.”

3. On the last date of hearing i.e., 12.07.2024 the following order was passed :-

“This appeal is directed against the order dated 07.02.2024 by which an application filed under Section 7 of the Code by Respondent No. 1 has been admitted. Counsel for the appellant has submitted that talks of settlement are going on between the parties which is likely to fructify, therefore, he prays for a short accommodation. Counsel for the respondent has not raised any objection in this regard. Adjourned to 25.07.2024.”

4. Counsel for the Parties, namely, the Appellant and the Respondent No. 1 have jointly submitted before us that the matter has now been settled between the parties.

5. The settlement arrived between the parties has been reduced in writing by virtue of Settlement Deed dated 25.07.2024 pursuant to which Counsel for the Appellant has handed over a demand draft of Rs. 2.85 Crores to Respondent No. 1 towards full and final settlement. The settlement deed is taken on record.

6. In view of aforesaid facts and circumstances, the Appellant has submitted that this appeal may be allowed and the Impugned Order may be set aside by which the CIRP has been initiated.

7. At this stage, Ms. Ranu Purohit, Advocate submits that she has also filed an Interlocutory Application bearing I.A. No. 4746 of 2024 on behalf of the

Resolution Professional of Respondent No. 2 and binding dues of the Resolution Professional (fees and expenses) incurred during this period.

8. We have heard parties and after examining the aforesaid facts and circumstances much less the fact that the matter has been settled by virtue of a Settlement Deed dated 25.07.2024, the Appeal is hereby allowed. The Impugned Order is set aside.

10. In so far as the IA No. 4746 of 2024 is concerned, the same is hereby dismissed as not pressed relegating the Applicant to file an appropriate application before the concerned NCLT.

[Justice Rakesh Kumar Jain]
Member (Judicial)

[Mr. Naresh Salecha]
Member (Technical)

[Mr. Indavar Pandey]
Member (Technical)

Sim/Ravi