

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 1697 of 2023

&

I.A. No. 6107 of 2023

IN THE MATTER OF:

R. G. Prasad Rao

...Appellants

Versus

V V Anand & Anr.

...Respondent

Present:

**For Appellants : Ms. Aditi Sharma and Mr. Nilesh Sharma,
Advocates.**

For Respondent : Mr. V. V. Anand, Advocate for RP.

Mr. Nainesh Amin and Mr. Rahul Darji, Advocates.

**Mr. Manoj Kumar Mishra, Advocates for R-
2/Liquidator.**

WITH

Company Appeal (AT) (Insolvency) No. 1699 of 2023

&

I.A. No. 6113 of 2023

IN THE MATTER OF:

R. G. Prasad Rao

...Appellants

Versus

Union Bank of India & Anr.

...Respondents

Present:

**For Appellants : Ms. Aditi Sharma and Mr. Nilesh Sharma,
Advocates.**

For Respondents : Mr. V. V. Anand, Advocate for RP.

Mr. Nainesh Amin and Mr. Rahul Darji, Advocates.

**Mr. Manoj Kumar Mishra, Advocates for R-
2/Liquidator.**

ORDER
(Hybrid Mode)

31.07.2024: **Comp. App. (AT) (Ins.) No. 1699 of 2023**

1. This Appeal has been filed by the Appellant challenging the Order dated 11.10.2023 passed by the Learned Adjudicating Authority (National Company Law Tribunal, Mumbai Bench-I) in I.A. 3010 of 2021 & I.A. 3844 of 2023 in C.P. (IB) 1197/C-I/MB/2017, by which Order the Liquidator has been appointed.

2. An Additional Affidavit has been filed by the Appellant in compliance of the Order dated 10.07.2024. In the Additional Affidavit it has been stated that the Bank has already approved the OTS, Letter dated 20.05.2024 which has been brought on the record. The Stakeholders Consultation Committee has already held its Meeting on 20.07.2024 where following has been resolved:

“The representative of the Union Bank of India stated that it is true that settlement has been reached out between the Suspended Director and the Union Bank of India. The figure for settlement was reached out as Rs. 2.48 Crores which was increased to Rs. 2.50 Crores. The Bank stated that Rs. 2.50 Crores consist of Settlement amount which also includes all Liquidation Cost till 8th July, 2024. Any Liquidation cost after 8th July, 2024 shall be paid by the suspended director on the basis of approved cost being made part of Liquidation Cost. Further the Bank stated that so far as settlement is concerned, the Bank shall abide by the order of Hon’ble NCLAT.

The suspended Director stated that it has challenged the Liquidation order of the Corporate Debtor before Hon’ble NCLAT and wants to proceed with Resolution Plan of the Corporate Debtor, however, the suspended director through Mr. Radhakrishnan made an invariable commitment that Liquidation Cost (Including Liquidator's fee, Legal fee, other cost along with GST as and where it is applicable) after 8th July, 2024 shall be borne by the Suspended Director till the time Liquidator is discharged from his role as Liquidator. The Liquidation Cost shall be paid by the suspended

director to the Union Bank of India and the Union Bank of India shall pay to the Liquidator.

The Liquidator stated that he will place entire Liquidation Cost which are incurred pre 8th July, 2024 and post 8th July 2024 before the Committee for its payment to the Liquidator. The Liquidation Cost shall include the Liquidator's fee, legal fee, Other cost along with GST as and when it is applicable.

*The Liquidator further informed that he along with Mr. Vijay Singh Baghel of Union Bank of India Goa Branch had visited the Corporate Debtor and took inventory of the Corporate Debtor under Panchnama. The said Panchnama is given by way of **Annexure-1** of the Minutes of the meeting.*

With the above noting the Stakeholder's Consultation Committee and Liquidator emphasized for early resolution of the matter and hoped for the final order of Hon'ble NCLAT on 31st July, 2024, so that the process can accordingly be complete pursuant to the order of Hon'ble NCLAT. The Liquidator informed the members that it will also submit the status report before the Hon'ble NCLAT stating the Liquidation process that has taken place till date."

3. Learned Counsel for the Bank appears and submits that Settlement has already been made.

4. *Comp. App. (AT) (Ins.) No. 1697 of 2023* is also filed against the same Order directing for Liquidation.

5. Learned Counsel for the Interim Resolution Professional ('IRP') appears in person and submits that Corporate Insolvency Resolution Process ('CIRP') cost of Rs.5.77 Lakhs is payable, taking into the subsequent events on record, where the Bank has already accepted the OTS. Stakeholders Consultation Committee has already given opinion which has already been noted above.

6. We are of the view that no case is made out to continue the Liquidation Proceeding any further taking into consideration the OTS as well as the decision of the Stakeholders Consultation Committee on record which is balance payment and the Resolution Plan.

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7. We see no reason to continue the Liquidation Order dated 11.10.2023. Liquidation Order is set aside. Order passed by the Adjudicating Authority approving the Resolution Plan has to be complied with as per the Order of the Adjudicating Authority with all the reliefs and concessions as granted. The Appellant undertakes to give the Demand Draft of Rs.5.77 Lakhs/- to the IRP within two weeks from today.

Both *Comp. App. (AT) (Ins.) Nos. 1697 & 1699 of 2023* are disposed of.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

[Arun Baroka]
Member (Technical)

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