

NATIONAL COMPANY LAW APPELLATE TRIBUNAL PRINCIPAL BENCH,
NEW DELHI

I.A. No. 4590 of 2024 in Comp. App. (AT) (Ins) No. 887 of 2023

IN THE MATTER OF:

Container Corporation of India Ltd. (CONCOR) ...Appellant

Versus

Roadwings International Pvt. Ltd. & Anr. ...Respondents

Present:

For Appellant : Mr. Krishnendu Datta, Sr. Advocate.

**For Respondents : Mr. Abhishek Swarup, Advocate.
Mr. Manish Jain & Mr. Vivek Sharma, for IRP/R-2.**

ORDER
(HYBRID MODE)

09.07.2024 **I.A No. 4590 of 2024**

1. The Appellant/Applicant has filed this Interlocutory Application bearing I.A No. 4590 of 2024 with a prayer to allow the appeal in terms of the settlement dated 03.07.2024 (**Annexure A-6**), alleging that the parties have settled in view of Government of India (Ministry of Finance, Department of Expenditure) one time settlement scheme called as 'Vivad se Vishwas-II' (**Contractual Disputes**) Scheme ("**the Scheme**") which commenced on 15.07.2023.

2. Counsel for the Applicant/ Appellant submits that the Respondent filed an application under Section 9 of the Insolvency & Bankruptcy Code, 2016 (**‘Code’**) bearing Company Petition No. (IB)-644(ND)/2022 which was admitted by the Tribunal on 12.07.2023. The said order was challenged by the Appellant

in the present appeal in which an order was passed on 14.07.2023 that *“In the meantime, the order passed by Adjudicating Authority dated 12.07.2023 shall remain stayed”*.

3. It is further submitted that the Operational Creditor filed its claims under the Scheme on 31.08.2023 amounting to Rs. 67,24,23,278/- under the one-time settlement in regard to the disputes arising out of the contract No. CON/T/RST/2009.

4. The Appellant gave a counter offer on 06.05.2024 of an amount of Rs. 38,04,84,291.85/-.

5. It is further submitted that Respondent No. 1 accepted the counter offer of the Appellant on 04.06.2024 for the aforesaid amount of Rs. 38,04,84,291.85/-. Thus, the settlement was arrived between the parties.

It is further submitted that upon receiving the aforesaid amount, no claims were pending out of the arbitral award dated 01.06.2022 in respect of the contract dated 18.03.2010.

6. The Appellant has thus, in this application prayed that since the CIRP has been triggered with the admission of the application filed by Respondent No. 1 and the entire amount is settled to be paid, the present appeal may be allowed and the Impugned Order dated 12.07.2023 may be set aside in terms of the settlement (Annexure A-6).

7. Notice in the application. Shri Abhishek Swarup, Advocate accepted notice in the court and submits that Respondent No. 1 has also filed an affidavit of Pritam Singh S/o Sh. Bachan Singh which is Annexure A-5 on

record in which he has admitted the issue regarding settlement between the parties on an amount of Rs. 38,04,84,291.85/- and also submitted that the entire claim of Respondent No. 1 has now been settled and therefore, the Appeal may be allowed and the Impugned Order may be set aside.

8. Heard Counsel for the Parties and after examining the aforesaid facts and circumstances mentioned in the application, the same is hereby allowed and as a consequence thereof the appeal is also allowed and the Impugned Order dated 12.07.2023 is set aside in terms of the settlement between the parties (**Annexure A-6**).

[Justice Rakesh Kumar Jain]
Member (Judicial)

[Mr. Naresh Salecha]
Member (Technical)

[Mr. Indavar Pandey]
Member (Technical)

Sim/Ravi