

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL,  
PRINCIPAL BENCH, NEW DELHI**

**I.A. No. 3771 of 2023**

**IN**

**Comp. App. (AT) (Ins) No. 1012 of 2023**

**In the matter of:**

**Pramod Kumar**

**....Appellant**

**Vs.**

**M/s. Kalpataru Power Transmission Ltd. & Anr.**

**...Respondent**

**For Appellant:** Mr. Virendra Ganda, Sr. Advocate with Mr. Saurabh Mishra, Ms. Bhumi Agarwal, Ms. Akansha Mathur, Ms. Tanya Hasija, Mr. Vivek Tyagi, Advocates.

**For Respondent:** Mr. Vikas Mishra, Ms. Anu Tiwari, Mr. Pranav Saigal, Advocates.

**ORDER**

**21.08.2023:** This Appeal has been filed against the order dated 24.07.2023 admitting Application under Section 9 of the IBC. In this Appeal, on 31.07.2023, this Appellate Tribunal passed following order:-

*“**31.07.2023:** Heard Mr. R. Venkataramani, A.G. and Mr. Virendra Ganda, Sr. Advocates appearing for the Appellant and Mr. Krishnendu Datta, Sr. Advocate and Mr. Abhijeet Sinha and Mr. Vikash Mishra, Advocates appearing for the Respondent.*

*2. This Appeal has been filed by the Suspended Director of the Corporate Debtor challenging the admission order dated 24<sup>th</sup> July, 2023.*

*3. Appellant's case is that the Corporate Debtor was project management consultant for the project of construction of hospital namely Kalpana Chawla*

*Government Medical College. It is submitted that the Appellant was only an agency for the principal employer and could not have been arrayed as Corporate Debtor for initiating Insolvency Proceedings against the Agency. It is submitted that the Application filed against the Appellant was not maintainable and the liability was only of the principal employer. It is further submitted that certain payments were made during the pendency of the Application and amount withheld was due to unsatisfactory completion of the project.*

*4. Learned Sr. Counsel-Mr. Krishnendu Datta appearing for the Respondent refuted the submissions of the Appellant and submitted that under the agreement it was responsibility of the Corporate Debtor to measurement and make payment and payment has actually been made by the Corporate Debtor from time to time and final bill was also certified by the officials of the Corporate Debtor and the Kalpana Chawla Government Medical College has already intimated to the Corporate Debtor to make payment since fund was also transferred. It is submitted that when the claim was against the Corporate Debtor, the Application under Section 9 was rightly filed against the Corporate Debtor.*

*5. Learned Sr. Counsel for the Appellant has further submitted that without prejudice to the contentions of the parties, Appellant is ready to deposit amount of Rs. 4,02,66,750/- which is claimed by the*

*Financial Creditor still balance to be paid in the Court to protect the interest of the parties.*

*6. Let the Appellant deposit the aforesaid amount by Bank Draft in the name of Registrar, NCLAT, in an Interest Bearing Account of Nationalised Bank within one week from today.*

*7. Issue notice to the Respondents. Learned Counsel appearing for the Respondents accept notice.*

*8. Let Reply-Affidavits be filed within two weeks. Rejoinder may also be filed within two weeks, thereafter. List this Appeal on 14th September, 2023.*

*In the meantime, Order dated 24<sup>th</sup> July, 2023 shall remain stayed subject to aforesaid deposit.”*

2. An I.A. 3771 of 2023 has been filed bringing on record Settlement between the parties dated 17.08.2023.

3. Learned Counsel for the Operational Creditor submits that the matter has been settled between the parties and CIRP be not proceeded any further. Counsel further submits that in view of the fact that interim order was passed within a week, no further steps could be taken by the IRP. However, we are of the view that a nominal fee of Rs.2 Lakhs be paid to the IRP by the Appellant within two weeks.

4. I.A 3771 of 2023 is taken on record. We close the CIRP against the Corporate Debtor. Impugned Order dated 24.07.2023 stands set aside. The

amount deposited by the Appellant in pursuance of the order dated 31.07.2023 be refunded to the Appellant.

5. Appeal is disposed of accordingly.

**[Justice Ashok Bhushan]  
Chairperson**

**[Barun Mitra]  
Member (Technical)**

**[Ajai Das Mehrotra]  
Member (Technical)**

***Anjali/nn***