

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

Company Appeal (AT) (Insolvency) No. 1448 of 2023

In the matter of:

**Kunal Goswami,
Member Suspended Board of Directors
Vs.**

....Appellant

**Purulia Metal Casting Pvt. Ltd.
Through Jitendra Lohia Interim Resolution
Professional & Anr.**

...Respondents

For Appellant

**Mr. Saikat Sarkar, Mr. Shashank Agarwal,
Advocates.**

For Respondents

**Mr. S.K. Sharma, Advocate for PNB
Mr. Palash S Singhai, Advocate.**

ORDER

(Hybrid Mode)

08.01.2024: Heard Learned Counsel for the Appellant as well as Counsel for the Respondents.

2. This Appeal has been filed against the order dated 18.10.2023 admitting Section 9 Application filed by the Operational Creditor. When the Appeal was taken on 07.11.2023, Counsel for the Appellant submitted that they have approached the Corporate Debtor for settlement. Noticing the said statement, direction was issued not to constitute the Committee of Creditors.

3. Today, when the case is taken up, it is submitted by the Counsel for the parties that no settlement has been arrived between the parties. Counsel for the Appellant challenging the order contends that the Corporate Debtor has already paid the amount of Rs.1,50,93,852/- which was proved from ledger as

well as the Bank statement filed by the Operational Creditor itself. Counsel submits that the amount which was paid by the Corporate Debtor for second tranche invoices was to be adjusted in overdue amount which was not adjusted by the Operational Creditor. It is submitted that further Rs.30 Lakhs has been paid after filing of Section 9 application.

4. Be that as it may, Adjudicating Authority after considering the submissions of the parties come to the conclusion that there are debt due on the Corporate Debtor which is more than threshold amount, hence, the application under Section 9 was admitted. We, thus, do not find any error in the order warranting interference by this Tribunal. We, however, make it clear that in event Appellant settles with Operational Creditor, it will be open for the Appellant to make an application under Section 12A before the Adjudicating Authority for closure of the Application.

5. Learned Counsel for the Punjab National Bank submits that the IA No. 142 filed by him has become infructuous. The said statement is recorded.

6. The Appeal is dismissed.

**[Justice Ashok Bhushan]
Chairperson**

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

**[Arun Baroka]
Member (Technical)**

Anjali/nn