

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

**Company Appeal (AT) (Insolvency) No. 474 of 2022**

**IN THE MATTER OF:**

**Deepankur Sharma, ...Appellant**  
**Erstwhile Interim Resolution Professional of Arpan**  
**International Ltd.**

**Versus**

**Pradeep Cycle Industries through its Proprietor ...Respondent**  
**Pradeep Kumar**

**Present:**

**For Appellant:** Mr. Yash Gupta, Advocate

**For Respondent:**

**ORDER**  
**(Virtual Mode)**

**04.05.2022:** Heard Learned Counsel for the Appellant.

2. This Appeal has been filed against the Order dated 16<sup>th</sup> March, 2022 passed by the Adjudicating Authority by which I.A. No. 1 of 2022 in CP(IB) No. 171/Chd/Pb/2019 filed by the Operational Creditor by which Application permission was sought of the Tribunal to withdraw the petition, was allowed.

3. The Adjudicating Authority by allowing application has also directed payment of Rs. 1,10,000/- in addition to Rs. 75,000/- which was already paid to the IRP. The IRP aggrieved by the said Order, has come up in this Appeal.

4. Learned Counsel for the Appellant submits that the cost which was paid to the Appellant is not commensurate to the work which was done by the IRP. It is further submitted that there was no settlement before the IRP hence the Application under Section 12A could not be filed.

5. We have considered the submissions of Learned Counsel for the Appellant and perused the record.

6. The Admission of the Application i.e. CP(IB) No. 171/Chd/Pb/2019 under Section 9 of the I&B Code, 2016 was passed only on 22<sup>nd</sup> December, 2021 and the Application i.e. I.A. No. 01 of 2022 under Rule 11 by the Operational Creditor to withdraw the Application was filed on 03<sup>rd</sup> January, 2022 and 04<sup>th</sup> January, 2022, Adjudicating Authority has passed an order on the Application that status quo regarding the CIRP be maintained. The Adjudicating Authority on 04<sup>th</sup> January, 2022 passed following orders:

*“The present application has been filed for withdrawal of CP(IB)No. 171/Chd/Pb/2019 and for setting aside the order dated 22.12.2021 wherein the petition filed under Section 9 of the Code has been admitted. Learned Counsel for the applicant has placed reliance upon the judgment dated 07.07.2021 of the Hon’ble NCLAT in Anuj Tejpal, Director of the Suspended Board of Directors OYO hotels and Homes Pvt. Ltd. Vs. Rakesh Yadav dated 07.07.2021; (2021) ibclaw.in 303 NCLAT. Since, the fee of interim Resolution Professional has not been settled so far, so in the interest of justice, issue notice of this Application to the interim Resolution Professional within*

*two weeks. The applicant shall collect the notice from the Registry and send the same immediately to the respondent at its registered address by speed post alongwith copy of the application and the entire paper book and the copy of the order as well as the email of the respondent.*

*2. In case, the service of speed post on the respondents is not effected, then the applicant shall adopt the mode of substituted service and the notice of hearing be advertised in two daily newspapers (one English and one Hindi) having wide circulation in the area and file affidavit of service along with copy of postal receipt, tracking report, copy of email and paper clippings, if applicable within two weeks.*

*3. Reply, if any, be filed within three weeks after receipt of notice with a copy in advance to the counsel opposite, Rejoinder thereto, if any, may be filed one week thereafter, with a copy in advance to the counsel opposite.*

*4. Learned Counsel for the applicant has also requested for stay of further proceedings under admission order dated 22.12.2021 and has placed reliance upon the order dated 23.12.2021 passed by Hon'ble NCLAT in Company Appeal (AT) Ins. No. 1087 of 2021; Anil Soni Vs. KM Fincorp LLP & Anr. and Order dated 07.12.2021 passed by Hon'ble NCLAT in Company Appeal (AT) Ins. No. 1023 of 2021; Mirtunjay Kumar Vs. Propertree Real Estate Solutions Pvt. Ltd. & Anr.*

5. *List this application on 19.01.2022.*

6. *In view of the submissions made by learned counsel for the applicant and the aforesaid orders relied upon by the learned counsel for the applicant, status quo till the next date of hearing regarding the further proceedings under admission order dated 22.12.2021 be maintained by Interim Resolution Professional.”*

7. Subsequent to the said Order, the notice was issued to the Application to IRP since IRP had not filed 12A application raising the issue of fee of the Interim Resolution Professional. Subsequently, the notice of the Application was given to the IRP and after hearing the IRP, the Adjudicating Authority has passed the Order dated 16<sup>th</sup> March, 2022. In paragraph 15 of the Order, the Adjudicating Authority has made following directions with regard to the costs:

*“The Hon’ble NCLAT, in the matter of Sushil Ansal Vs. Ashok Tripathi and Ors. in Company Appeal (AT) Ins. No. 452 of 2020 decided on 14.08.2020 and in the matter of Shilpi Cable Technologies Limited Vs. Macquaire Bank Ltd. in Company Appeal (AT) Ins. No. 101 and 102 of 2017 decided on 01.08.2017 held that “the Adjudicating Authority will fix the fee of ‘Interim Resolution Professional’ for the period he has functioned”. Although IRP has claimed estimated cost of Rs. 3,75,000/- but he has not forwarded the details of expenditure. He had already been paid Rs. 75,000/- as CIRP cost. Keeping in view the facts and circumstances when Corporate Insolvency Resolution Process was ordered on 22.12.2021 and present application has been filed on 03.01.2022, we direct the applicant to pay*

*the fee of Rs. 1,10,000/- (One lakh ten thousand only) which is just, fair and reasonable in addition to Rs. 75,000/- already paid CIRP cost, including all miscellaneous expenses to the Interim Resolution Professional. The Corporate Debtor (Company) is released from all the rigours of law and is allowed to function independently through its Board of Directors from immediate effect.”*

8. The Application was admitted on 22<sup>nd</sup> December, 2021 and on 04<sup>th</sup> January, 2022, the Adjudicating Authority after noticing the Application and submissions of the Learned Counsel for the Operational Creditor has directed the Status Quo, the IRP virtually effectively functioned only for 14 days. In view of the Status Quo order was not to function any further, we are of the view that Order of the Adjudicating Authority directing the payment of fee and CIRP cost of Rs. 1,10,000/- in addition to Rs. 75,000/- was quite reasonable and does not warrant any interference.

9. Looking to the present case, we are of the view that IRP has filed the Appeal only raising issue of fee whereas he had worked only for 14 days and the direction was issued for payment of fee of Rs. 1,10,000/- plus Rs. 75,000/- which is quite reasonable and appropriate. We are of the view that the Insolvency Proceedings are not the proceedings for only fee of the IRP and RP payment of fee and cost are only consequential to the main proceeding.

10. The IRP in the present case, has made the proceedings as if the same are only for fees and expenses. We do not find any substance in this appeal. The Appellant without any valid grievance has rushed in filing this appeal.

With these observations, we dismiss the Appeal.

**[Justice Ashok Bhushan]**  
**Chairperson**

**[Ms. Shreesha Merla]**  
**Member (Technical)**

Basant/nn