

INSTITUTE OF INSOLVENCY PROFESSIONALS

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Learning Curve-498

February 17, 2021

Settlement Terms not incorporated in the order of the Adjudicating Authority cannot be said to assume the character of the decree of the Court and any breach thereof would entitle the Corporate Debtor to seek restoration or revival of CIRP.

CASE TITLE	Krishna Garg &Anr Vs. Pioneer Fabricators Pvt Ltd ¹
CASE CITATION	Company Appeal (AT) (Insolvency) Nos. 92 of 2021
DATE OF ORDER	12.02.2021
COURT/TRIBUNAL	NCLAT, New Delhi
CASES REFERRED	Swiss Ribbons Pvt. Ltd. &Anr. V. Union of India & Ors.
SECTION/REGULATION REFERRED	Section 7 of IBC, 2016

Brief of the case:

An appeal was preferred by Financial Creditors whose application for revival of Corporate Insolvency Resolution Process (CIRP) was rejected by the Adjudicating Authority in terms of the impugned order dated 7th December, 2020 on the ground that the CIRP initiated against Corporate Debtor vide order dated 12th June, 2019 was recalled by withdrawing the CIRP and that the Appellants could not seek revival of CIRP under the provisions of the Insolvency and Bankruptcy Code, 2016.

However, a settlement was arrived at between the parties, in pursuance whereof the Appellants received some post dated cheques. It further emerged from the order that neither the settlement terms were filed nor the same were brought on record and incorporated in the order of the Adjudicating Authority with liberty to revive/ restore the CIRP in the event of the Corporate Debtor not adhering to the terms of the settlement or post dated cheques issued to Appellants being dishonoured.

Decision:

Hon'ble NCLAT dismissed the appeal with following observations:

“3. In view of this position, it cannot be said that the Settlement Terms not incorporated in the order of the Adjudicating Authority assumed the character of the decree of the Court, breach whereof would entitle the Appellants Financial Creditors to come back and seek restoration/ revival of CIRP.”



QR CODE FOR FULL ORDER/JUDGEMENT:

¹<https://nclat.nic.in/Useradmin/upload/162148582560265274c5009.pdf>