

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 1156 of 2025

IN THE MATTER OF:

Bagh Bahar Appliances Pvt. Ltd.

...Appellant

Versus

Unity Small Finance Bank Ltd.

...Respondents

Present:

**For Appellant : Mr. Manoj Kumar Garg and Mr. Anuj Solanki,
Advocates.**

**For Respondents : Ms. Varsha Banerjee and Ms. Ayushi Mishra,
Advocates.**

O R D E R
(Hybrid Mode)

05.08.2025: Heard counsel for the appellant as well as counsel for the respondent.

2. This appeal has been filed against the order passed by the adjudicating authority dated 07.07.2025 by which I.A. IBC 2080(MB)/2025 filed by the respondent, the financial creditor has been allowed and Corporate Insolvency Resolution Process (CIRP) has been revived. The appellant who is Corporate Debtor aggrieved by the order has come up with this appeal challenging the said order.

3. The company petition was filed by the Bank under Section 7 being C.P. (IB) No.160(MB)/2024. In the said C.P. IB the OTS was accepted on 18.01.2024 and on the statement of both the parties, the court permitted the company petition to be withdrawn on 21.01.2025. A copy of the order dated

21.01.2025 has been filed at page 81 of the paper book and it is useful to extract the entire order, which is as follows:

“1. Adv. Raven Reshamwalla a/w Adv. Janhavi Hirlekar i/b Dhir & Dhir Associates for the Applicant are present. Adv. Anuj Solanki a/w Adv. Manoj Kumar Garg for the Respondent through VC are present.

2. The Ld. Counsel for the Corporate Debtor placed on record an OTS sanction letter dated 18.01.2024. The Counsel for the Financial Creditor confirms the receipt pf upfront payment stated therein.

3. The Corporate Debtor was admitted into CIRP on 07.01.2024 and on the mentioning on that date itself the CIRP order was stayed by this Tribunal in view of settlement being at advanced stage. Though, the Counsel for the Corporate Debtor has pressed for recall of the order in view of the settlement, the Counsel for the Financial Creditor consents to withdraw the petition in view of settlement. No other Creditor has come before this Tribunal objecting to withdrawal of the CIRP. In view these facts, we consider it appropriate to allow the withdrawal of Company Petition No 160 of 2024 in view of consent terms dated 18.01.2025 placed on record. The consent terms at clause 6 & 7 records as follows:

6. You are further informed that after receipt of entire settlement amount as per Schedule outlined in table I, the Bank will withdraw all legal proceedings (NCLT/Civil & Criminal) initiated if any, in terms of the present OTS letter by placing the same on record. The Bank shall accordingly, reserve its right to reinstate the proceedings in case of default / breach in receipt of any of the instalment and revoke the present OTS Letter.

7. The settlement offer is WITHOUT PREJUDICE to the rights of the Bank to continue / withhold all legal proceedings pending against the borrower / guarantor in connection with the subject account till the entire dues, either as per the settlement or agreement, or paid in full.

8. Accordingly, the said withdrawal shall be subject to clause 6 and 7 of letter reference No. USFE/JAN-01/BAGH BAHAR/24 25 DATED 18-01-2025.

*9. In view of above facts and submissions, we consider it appropriate to allow the withdrawal of the petition. Accordingly, C.P. (IB) / 160 * (MB) of 2024 is **disposed of as withdrawn.***

10. The CIRP process shall stand closed. The IRP is discharged and moratorium shall cease to be in-force from the date of this order.

11. The files be consigned to record room.”

4. The financial creditor filed the application being I.A. No. 2080(MB)/2025 alleging the breach of the settlement and prayed for revival of the CIRP which has been allowed, aggrieved by which order, corporate debtor has come up in this appeal.

5. Learned counsel for the appellant submits that once settlement has been entered between the parties and CIRP was withdrawn, there is no jurisdiction to revive since IBC is not a recovery proceeding. He submits that even if the settlement had been breached, CIRP being closed it could not have been revived. Appellant has also paid upfront payments and part instalments.

6. We have heard counsel for the appellant and perused the records.

7. Section 7 was withdrawn with clauses 6 & 7 as quoted in the order dated 21.01.2025 as extracted above. The order withdrawing Section 7 itself contemplated that Bank shall reserve right to re-instate the proceeding in case of default/breach in receipt of any of the instalments.

8. The present case, finding has been recorded by the adjudicating authority in the impugned order that default has been committed since the corporate debtor has failed to comply with the settlement terms, which findings are in paragraph 12 of the order, which is as follows:

“12. In view of the foregoing, it is noted that the Corporate Debtor has failed to comply with the settlement terms. Accordingly, the Company Petition CP IB 160 of 2024 is allowed to be restored. There is no provision in the Court for carrying forward the CIRP process from the stage of its terminated consequent upon settlement between the party, accordingly, the matter shall have to be taken up afresh.”

9. We do not find any error in the order reviving the Section 7 application which is in accordance with the terms and conditions as contemplated in the order dated 21.01.2025. We, thus do not find any merit in the appeal. The appeal is dismissed. It shall be open for the corporate debtor to appear before the adjudicating authority and make all submissions on merits.

Appeal is dismissed.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

himanshu/nn