

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI
Company Appeal (AT) (Insolvency) No. 52 of 2021

In the matter of:

Edelweiss Asset Reconstructions Company Ltd.
(acting in its capacity as trustee of EARC SC Trust
35)

....Appellant

Vs.

M/s. S. Kumars Ltd.

....Respondent

Present:

Appellant: Mr. RP Agrawal, Ms. Manisha Agrawal, Ms. Pragati
Agrawal, Advocates.

Respondent:

ORDER

(Through Virtual Mode)

28.01.2021: Application under Section 7 of the Insolvency and Bankruptcy Code, 2016 ("I&B Code" for short) filed by the Appellant is stated to be pending consideration for admission before the Adjudicating Authority (National Company Law Tribunal), Mumbai Bench, Court No.-II.

Mr. R.P. Agrawal, Advocate representing the Appellant- (Financial Creditor) has invited our attention to the impugned order dated 2nd March, 2020 by virtue whereof parties were directed to complete the pleadings if the endeavors for settlement do not fructify. The matter was posted for 15th April, 2021. According to Mr. R.P. Agrawal, learned counsel for the Appellant, the matter has not been taken up thereafter.

Contd/-.....

The statutory provision engrafted in Section 7(4) of the 'I&B Code' clearly provides the time frame of 14 days for the Adjudicating Authority to decide the application of Financial Creditor by either admitting or rejecting it. While one may not find fault with the approach of the Adjudicating Authority in providing an opportunity to the parties to work out a settlement, it needs to be emphasized that the statutory provision has to be kept in view and the Adjudicating Authority has to adhere to the statutory provisions. After ascertaining debt and default and being satisfied of the completeness of the application it is to pass an order of admission or rejection of application on merit.

In the given circumstances, we would, therefore, dispose off this appeal with a request to the Adjudicating Authority to list the matter in the coming week and in the event of parties not reporting settlement, pass order of admission or otherwise on merit after ascertaining debt and default and completeness of the application.

Copy of this order be communicated to the Adjudicating Authority forthwith.

**[Justice Bansi Lal Bhat]
Acting Chairperson**

**[Dr. Ashok Kumar Mishra]
Member (Technical)**

**[Dr. Alok Srivastava]
Member (Technical)**

AR/g