

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 549 of 2018

IN THE MATTER OF:

Babulal Vardharji Gurjar

...Appellant

Vs

Veer Gurjar Aluminium Industries Pvt. Ltd. & Anr.

...Respondents

Present:

For Appellant: Mr. Rohit Rathi and Mr. Rahul Totala, Advocates.

For Respondents:

ORDER

17.09.2018: The Appellant, Director of 'Veer Gurjar Aluminium Industries Pvt. Ltd.' (Corporate Debtor) has preferred this appeal against order dated 9th August, 2018 passed by the Adjudicating Authority (National Company Law Tribunal), Mumbai Bench whereby the application under Section 7 of the Insolvency and Bankruptcy Code, 2016 (for short I&B Code) preferred by 'JM Financial Asset Reconstruction Company Ltd.' (assignee of debts of Corporation Bank) has been admitted, order of moratorium has been passed and Interim Resolution Professional has been appointed.

2. Learned counsel appearing on behalf of the Appellant submitted that a petition under Section 19 of 'The Recovery of Debts Due to Banks and Financial Institutions Act, 1993' is pending before Debt Recovery Tribunal, Aurangabad. Wherein question has been raised is whether the amount is payable to the assignee or not.

3. However, the initiation of Corporate Insolvency Resolution Process cannot be annulled merely on the ground of pendency of a petition under Section 19 of 'The Recovery of Debts Due to Banks and Financial Institutions Act, 1993'. In fact in terms of Section 14 of I&B Code all such pending proceeding cannot proceed during the period of moratorium.

4. Learned counsel appearing on behalf of the Appellant contended that there is no debt payable. However, when we asked the counsel to file an addition affidavit signed by the Appellant making specific statement that they have not received any amount or amount received has already been paid and therefore there is no debt or there is no default, it is informed by the counsel for the Appellant that such affidavit cannot be filed by the Appellant as the Corporate Debtor had taken loan from the Bank.

5. In view of the aforesaid stand taken by Appellant, we are not inclined to interfere with the impugned order dated 9th August, 2018. In absence of any merit, the appeal is dismissed. No costs.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

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