

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 238 of 2020

IN THE MATTER OF:

Vidyasagar Prasad

...Appellant

Versus

UCO Bank & Anr.

...Respondents

Present:

For Appellant : Mr. Krishnendu Dutta, Mr. Sandeep Bajaj, Ms. Aakanksha Nehra, Mr. Naman Tandon, Mr. Shrivali Kajaria, Mr. Devansh Jain and Mr. Saurabh Jain, Advocates

O R D E R

07.02.2020 Learned counsel for the Appellant referred to Form 1 filed by the Respondent at page 107 to show that the account of the Bank was declared 'Non-Performing Asset' (NPA) on 5th November, 2014 to suggest that which is date of default shown in the said Form. Therefore, according to him, the Application under Section 7 of the 'I&B Code' is barred by Limitation. Apart from the decision of the Hon'ble Supreme Court in '**B.K. Educational Services Pvt. Ltd. vs. Parag Gupta and Associates**' (2019) 11 SCC 633' and "**Jignesh Shah and Another v. Union of India and Another**— (2019) 10SCC 750' and "**Gaurav Hargovindbhai Dave vs. Asset Reconstruction Company (India) Ltd. & Anr.** – (2019) 10 SCC 572' reliance has been placed on this Appellate Tribunal's decision in '**C. Shivkumar Reddy vs. Dena Bank & Anr.**' in '*Company Appeal (At) (Insolvency) No. 407 of 2019* to suggest that books of account cannot be

treated to be a record of acknowledgment in terms of Section 18 of the Limitation Act.

Let notice be issued on the Respondents by Speed Post. Requisites along with process fee be filed by 10th February, 2020. If the Appellant provides the *e-mail* address of respondents, let notice be also issued through *e-mail*. *Dasti* service is permitted.

Respondents may file their reply-affidavit within 2 weeks. Rejoinder, if any, may be filed within a week thereof.

Post the case 'for orders' on **4th March, 2020**. The Appeal may be disposed of on the next date.

Until further orders, the 'Interim Resolution Professional' will not constitute the 'Committee of Creditors', if not yet constituted, and 'Committee of Creditors' will not approve any resolution plan.

In the meantime, the 'Interim Resolution Professional' will ensure that the company remains a going concern and will take the assistance of the (suspended) Board of Directors. The persons who are working will perform their duties including the paid Directors. The person who is authorised to sign the Bank Cheques may issue cheques only after authorisation of the 'Interim Resolution Professional' with counter signature of the 'Interim Resolution Professional' at the back side of the cheques. In such case, the Bank shall release the payment. The 'Interim Resolution Professional' will place this order before the Banks, in which accounts of the 'Corporate Debtor' are maintained. The Bank Account(s) of the 'Corporate Debtor' be allowed to be operated for day-to-day functioning of the company such as for payment of

Current Bills of the Suppliers, Salaries and Wages of the employees'/workmen,
electricity bills etc.

[Justice S.J. Mukhopadhaya]
Chairperson

[Shreesha Merla]
Member (Technical)

/ns/gc/