

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency)No. 212 of 2019

IN THE MATTER OF:

Gaurav Agrawal, Director M/s Albus India Ltd.Appellant

Vs.

M/s. TUF Metallurgical Pvt. Ltd. & Anr.Respondents

Present :

For Appellant: Mr. Vineet Arora, Mr. Vidhan Vyas, Mr. Akshat, Ms. Gauri P. Desai, Advocates

For Respondents: Mr. Vaibhav Mahajan, Mr. Siddhant Gupta, Ravneet Singh, Advocates for R-2

O R D E R

25.07.2019 - According to the Appellant, pursuant to the Agreement dated 4th April, 2017, Respondent had right to procurement of 'Low Carbon Ferro Chrome' per month from the 'Corporate Debtor'. The amount advanced for such procurement did not come within the meaning of 'Financial Creditor'. A 'Financial Debt' as defined u/s 5(8) of the Insolvency & Bankruptcy Code, 2016 ('I&B' Code, for short) is not attracted as the amount is not disbursed against the consideration for the time, value of money. However, according to the Appellant, the amount has been disbursed towards purchase of goods, to the lessee.

...contd.

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On the other hand, learned counsel for Respondent submits that the Respondent having first charge over the 'Low Carbon Ferro Chrome', comes within the meaning of 'financial debt' as defined u/s 5(8) (f) of the Insolvency & Bankruptcy Code, 2016 ('I&B' Code, for short). It is further submitted that the amount was disbursed as loan to be repaid over 2% interest per month which shows the disbursement was for consideration for the time, value of money.

Heard learned counsel for the parties. **Judgment is reserved.**

It will be open to the parties to file short written submissions not more than three pages on the question of law and relevant facts by 29th July, 2019.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice A. I. S. Cheema]
Member (Judicial)

[Kanthi Narahari]
Member (Technical)

ss/gc