

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI
Company Appeal (AT) (Insolvency) No. 1192 of 2019

IN THE MATTER OF:

State Bank of India

...Appellant

Vs

Adhunik Steels Ltd.

....Respondent

Present:

For Appellant: Ms. Misha, Advocate.

For Respondent: Mr. Anup Kumar, Mr. Magan Seth and Mr. Varun Narang, Advocates.

ORDER

20.01.2020: Heard Ms. Misha, learned counsel for the Appellant – ‘State Bank of India’ and Mr. Anup Kumar, Learned counsel for the Respondent – ‘Adhunik Steels Ltd.’ (Corporate Debtor).

2. It is informed that the Corporate Insolvency Resolution Process initiated against ‘M/s Adhunik Alloys and Power Ltd.’ (Principal Borrower) has been completed and resolution plan has been approved. It is accepted by learned counsel for the ‘State Bank of India’ that the claim of the appellant has been taken care therein and certain liberty has been given in terms of said plan.

3. In this background, we are not inclined to interfere with the impugned order dated 4th September, 2019 whereby application under Section 7 of the Insolvency and Bankruptcy Code, 2016 filed by ‘State Bank of India’ against ‘M/s Adhunik Steels Ltd.’ the Corporate Guarantor of ‘M/s Adhunik Alloys and Power Ltd.’ (Principal Borrower) has been disposed of as being not maintainable, following the ratio of judgment rendered by this Appellate Tribunal in ‘Vishnu Kumar Agarwal Vs. Piramal Enterprises Ltd.’, Company Appeal No. 346 and 347 of 2018 disposed of on 8th January, 2019.

4. Learned counsel for the Appellant submits that in the approved resolution plan of 'M/s Adhunik Alloys and Power Ltd.' certain liberty has been granted to 'State Bank of India' for recovery of rest of the amount from the Guarantor. On the other hand according to Mr. Anup Kumar, learned counsel for the Respondent, no balance amount is payable the matter having settled with the 'M/s Adhunik Alloys and Power Ltd.' (Principal Borrower). Once the matter is settled with M/s Adhunik Alloys and Power Ltd.' (Principal Borrower), the Guarantee, if any, given by one or other parties (such as Corporate Debtor herein) automatically stands extinguished. Reliance has been placed on decision of Hon'ble Supreme Court in '**Committee of Creditors of Essar Steel India Limited Vs. Satish Kumar Gupta & Ors., Civil Appeal No. 8766-67/2019 and other petitions**'.

5. However, we are not expressing any opinion with regard to such issue, as all the relevant facts are to be noticed by the Competent Authority/ Court of Law, if any application is filed or proceeding is initiated by the State Bank of India against the Corporate Debtor. The appeal stands disposed of.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

am/sk