

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal(AT)(Insolvency) No. 132 of 2018

IN THE MATTER OF:

Mr. Anirudha Balkrishna Joshi & Ors. ...Appellants

Vs

The Bharat Co-operative Bank(Mumbai) Ltd. & Ors.Respondents

Present:

For Appellants: Mr. U.K. Choudhary, Senior Advocate withy Mr. Rajesh Bohra, Ms Sangeeta Bohra and Mr. Aditya Narayan, Advocates.

For Respondents: Mr. Rajesh Nagory, Mr. Vinod Kotwari, Mr. P.S. Sudheer, Mr. Bharat Sood Advocates and Mr. Dhananjay Kumar, - authorized representative of Respondent No. 1

ORDER

16.04.2018 Caveat discharged. The Appellant claiming to be guarantor and Director of the 'Corporate Debtor' is aggrieved of the impugned order dated 21.02.2018 passed by the Adjudicating Authority, National Company Law Tribunal, Mumbai Bench (henceforth referred to as "NCLT") in MA No. 402/2017 in C.P. No. 1313/I&BP/2017 by virtue whereof the Appellant's application for extending protection of moratorium to him as personal guarantor has been dismissed on the ground that the moratorium is not extendable against the assets of the promoters/co-borrowers/guarantors.

Learned Counsel for the Appellant submits that the finding recorded by the Adjudicating Authority is erroneous in view of the law laid down by this Appellate Tribunal that the moratorium is not only applicable to the property of the 'Corporate Debtor' but also on the personal guarantor.

Learned Counsel for the Appellant submits that the Adjudicating Authority being NCLT, Mumbai Bench has extended the moratorium by 90 days from 14.03.2018 till 12.06.2018.

Heard learned Counsels for the parties. This Appellate Tribunal in Company Appeal(AT)(Insolvency) No. 213 of 2017 titled '**SBI Vs. V. Ramakrishnan and Anr.**' decided on 28.02.2018 held that the moratorium would be applicable on the personal guarantor besides property of the 'Corporate Debtor'. This judgment holds the field till date and it has not been disturbed by the Hon'ble Apex Court.

In view of the settled law, the impugned order cannot be sustained. At this stage, learned Counsels for the parties agreed to disposal of the appeal. The appeal is accordingly disposed of by holding that moratorium slapped in terms of the order dated 15.09.2017 passed by the Adjudicating Authority, NCLT, Mumbai Bench in C.P. No. 1313/I&BP/2017 will also extend to the property of the Appellant- personal guarantor. Impugned order is set aside as being legally unsustainable and the Appeal is allowed.

Akc/Unk

[Justice Bansi Lal Bhat]
Member (Judicial)