

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 299 of 2017

IN THE MATTER OF:

Steamline Industries Ltd.

...Appellant

Vs.

Tecpro Systems Ltd. & Anr.

...Respondents

Present: For Appellant: - Mr. Aditya Tiwari, Advocate.

For Respondents:- None

ORDER

04.12.2017- Admittedly, 'Corporate Insolvency Resolution Process' has already been initiated against 'Tecpro Systems Limited' ('Corporate Debtor') pursuant to an application under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "I&B Code") preferred by 'Edelweiss Asset Reconstruction Company Limited' in Company Petition No. (IB)197(PB)/2017. In view of the order of moratorium passed under Section 13 read with Section 14 of the 'I&B Code', the Civil Suit (COMM) 123/2017 against the 'Corporate Debtor' and Another pending before the Hon'ble High Court of Delhi cannot proceed.

2. In view of the order of moratorium, as the suit filed by the Appellant is not proceeding, the Appellant filed an application before the

Contd/-.....

Adjudicating Authority (National Company Law Tribunal), Principal Bench, New Delhi, to permit the Appellant to pursue the proceedings pending before the Hon'ble High Court of Delhi in Civil Suit (COMM) 123/2017. The Adjudicating Authority referring to Section 14(1)(a) of the 'I&B Code' rejected the application preferred by Appellant with cost.

3. Learned counsel appearing on behalf of the Appellant submits that the suit in question has been filed under 'Commercial Court Act', therefore, the provision of the said Act will prevail over the 'I&B Code'. However, such submissions cannot be accepted in view of Section 238 of the 'I&B Code', which reads as follows:-

“238. Provisions of this Code to override other laws.-

The provisions of this Code shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law.”

4. In the circumstances, no relief can be granted to the Appellant.

5. However, we make it clear that the impugned order passed by the Adjudicating Authority on 9th October, 2017 or order passed by this Appellate Tribunal will not come in the way of Appellant to claim the amount, if due from the 'Corporate Debtor' by filing application before the 'Insolvency Resolution Professional'. In such case, the 'Insolvency Resolution Professional' and the 'Committee of Creditors' will consider

the Appellant's application along with other claimants in accordance with law. The appeal is dismissed with aforesaid liberty to the Appellant.

No separate cost.

(Justice S.J. Mukhopadhaya)
Chairperson

(Justice Bansi Lal Bhat)
Member(Judicial)

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