

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 49 of 2020

IN THE MATTER OF:

Bank of India

...Appellant

Versus

M/s. IRIS Electro Optics Pvt. Ltd. & Ors.

...Respondents

Present:

For Appellant : Mr. Ashish Rana and Mr. Harshit Garg, Advocates

O R D E R

10.01.2020 According to the learned counsel for the Appellant – ‘Bank of India’, the application under Section 7 of the ‘Insolvency and Bankruptcy Code, 2016’ (**‘I&B Code’**, for short) was filed by 3rd Respondent – ‘Mr. Laxmi Kantha Rao Thota’ against ‘M/s. IRIS Elector Optics Pvt. Ltd.’ (Corporate Debtor) fraudulently with malicious intent, not for resolution or liquidation and calls for imposition of penalty in terms of Section 65 of the ‘I&B Code’. The ‘Bank of India’ is a secured creditor who never triggered any process against the ‘Corporate Debtor’ but 3rd Respondent – ‘Mr. Laxmi Kantha Rao Thota’, who is a related party to the ‘Corporate Debtor’, filed an application in connivance against M/s. IRIS Elector Optics Pvt. Ltd.’. Learned counsel for the Appellant submits that after knowing the fact that the said ‘Mr. Laxmi Kantha Rao Thota’, a related party, being a member of the ‘Committee of Creditors’ then moved the application under Section 60(5) alleging that the application under Section 7 was filed fraudulently with malicious intent and not for resolution but for liquidation. The Adjudicating Authority by impugned order dated 27th November, 2019 has not

determined the same in accordance with law. It is also submitted that the aforesaid collusive step has been taken by the related party to annul the action taken by the 'Bank of India' under Section 34 of the 'SARFAESI Act, 2002.

Let notice be issued on the Respondents by Speed Post. Requisites along with process fee be filed by 13th January, 2020.

Post the case 'for orders' on **12th February, 2020**. The appeal may be disposed of at the stage of admission.

Till the next date, the Adjudicating Authority (National Company Law Tribunal), Hyderabad Bench, Hyderabad will not pass any order of 'Liquidation'.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansilal Bhat]
Member (Judicial)

/ns/gc/