

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 1161 of 2019**

**IN THE MATTER OF:**

**New Bharat Refractories Ltd.**

**...Appellant**

**Versus**

**Dhendai Tea and Industries Pvt. Ltd.**

**...Respondent**

**Present:**

**For Appellant :**               **Mr. Nikunj and Mr. Dhruv Surana, Advocate**

**For Respondent :**           **Mr. Arun Sri Kumar, Advocate**

**ORDER**

**12.12.2019**           ‘M/s. New Bharat Refractories Ltd.’ (‘Financial Creditor’) filed an application under Section 7 of the Insolvency and Bankruptcy Code, 2016 (“I&B Code” for short) for initiation of the ‘Corporate Insolvency Resolution process’ against ‘Dhendai Tea and Industries Pvt. Ltd.’ – (‘Corporate Debtor’). The Adjudicating Authority (National Company Law Tribunal), Kolkata Bench, kolkata, by impugned order dated 6<sup>th</sup> September, 2019 dismissed the application on the ground that the application was barred by limitation.

2.       Learned counsel for the Appellant submits that there are evidences on record to suggest that the debt is payable and not barred by limitation. On the other hand, Mr. Arun Sri Kumar, learned counsel for the Respondent submits that the application under Section 7 is barred by limitation.

3.       On perusal of the record and from Form-1 (Part IV), we find that on 31<sup>st</sup> March, 2015, when the loan amount became due and payable after the expiry of

the period i.e. the date of default shown in the record, the application under Section 7 has admittedly been filed on 10<sup>th</sup> October, 2018, we agree with the findings of the Adjudicating Authority that the application under Section 7 is barred by limitation.

The appeal is dismissed. No costs.

[Justice S.J. Mukhopadhaya]  
Chairperson

[Justice Bansi Lal Bhat]  
Member (Judicial)

[Justice Venugopal M.]  
Member (Judicial)

/ns/gc