

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

**Company Appeal(AT)(Insolvency) 372 of 2018**

**IN THE MATTER OF:**

**M/s Trust House Commerce Centre  
Pvt. Ltd. & Anr.**

**...Appellants**

**Vs**

**Abhyudaya Co-operative Bank Ltd.**

**....Respondent**

**Present:**

**For Appellants: Mr. Udayaditya Banerjee, Advocate.**

**For Respondent: Mr. Rajeev K. Pandey and Mr. Rajeev M. Roy,  
Advocates**

**O R D E R**

**05.09.2018** This appeal has been preferred by 'Corporate Debtor' and another against the order dated 5<sup>th</sup> March, 2018 passed by the Adjudicating Authority (National Company Law Tribunal) Mumbai Bench whereby and whereunder the application under Section 7 of Insolvency & Bankruptcy Code, 2016 preferred by the Respondent ('Financial Creditor') has been admitted.

Apart from the fact that the appeal at the instance of 1<sup>st</sup> Appellant/'Corporate Debtor' is not maintainable in view of the decision of the Hon'ble Supreme Court in '**Innoventive Industries Ltd. Vs. ICICI & Anr.**' – in Civil Appeal Nos. 8337-8338 of 2017 -(2018) 1 SCC 407 (pargraph-11), on 16.07.2018 when the matter was take up, this Appellate Tribunal passed the following order:

*“On hearing the parties we are not inclined to grant any relief in absence of any infirmity in the impugned order whereby*

*‘corporate insolvency resolution process’ has been initiated pursuant to application filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 by the Respondent Bank and there being a continuous cause of action the application was not barred by limitation or laches. Apart from that a decree having already passed in favour of the ‘Financial Creditor’ and recovery certificate having been issued, we find there is a default on the part of the ‘Corporate Debtor’. In these circumstances learned counsel appearing on behalf of the ‘Corporate Debtor’ sought permission to file affidavit and to state whether the shareholders/Directors are ready to pay the debts of the ‘Financial Creditors’ and ‘Operational Creditors’. On the request of the learned counsel for the appellant, we give an opportunity to the appellants, though we find that the appeal on behalf of the 1st appellant ‘Corporate Debtor’, is not maintainable.*

*Post the case for ‘orders’ on 7th August, 2018.*

*In the meantime, ‘corporate insolvency resolution process’ initiated shall continue.”*

The aforesaid order dated 16.07.2018 being final so far it relates to merit of the appeal, it cannot be reviewed. We have also reviewed the said order.

As the parties could not settle the matter and no other order required to be passed, the appeal is dismissed. No cost.

[Justice S.J. Mukhopadhaya]  
Chairperson

[Justice Bansi Lal Bhat]  
Member (Judicial)

Akc/Sk