

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 276 of 2020

IN THE MATTER OF:

Mr. Sanjay Lamba

...Appellant

Vs.

Corporate Bank & Anr.

...Respondents

Present: For Appellant: - Mr. Gourab Banerji, Senior Advocate with Mr. Abhijeet Sinha, Ms. Raka Chatterjee and Mr. Syed Abdul Haseeb, Advocates.

For Respondents: - None.

O R D E R

14.02.2020— Learned counsel for the Appellant submitted that the application under Section 7 of the Insolvency and Bankruptcy Code, 2016 filed by the Corporation Bank was barred by limitation. The account was declared NPA on 30th September, 2016 and the application under Section 7 was filed after more than three years in November, 2019.

2. Refereeing to the decision of this Appellate Tribunal, it is submitted that taking action under SARFAESI Act, 2002 or filing any original application by any party before the Debt Recovery Tribunal cannot shift forward the date of default which is to be counted from the date of NPA.

3. Reliance has also been placed on the decisions of the Hon'ble Supreme Court.

4. Learned counsel for the Appellant submitted that reserving its right of objection, the Appellant may be allowed to settle the matter with the Bank.

Contd/-.....

5. Let notice be issued on Respondents by speed post. Requisite along with process fee, if not filed, be filed by 17th February, 2020. If the Appellant provides the e-mail address of Respondents, let notice be also issued through e-mail.

Post the case 'for orders' on 4th March, 2020. The appeal may be disposed of on the next date.

In the meantime, the 'Interim Resolution Professional' will not constitute the 'Committee of Creditors', if not yet constituted to enable the parties to reach settlement subject to right of the Appellant. However, the 'Interim Resolution Professional' will ensure that the company remains a going concern and will take assistance of the (suspended) Board of Directors and the officers/ Directors/employees. The person who is authorised to sign the bank cheques may issue cheques but only after approval of the 'Interim Resolution Professional'. The Bank Account of the 'Corporate Debtor' be allowed to be operated for day-to-day functioning of the company such as for payment of Current Bills of the suppliers, salaries and wages of the Employees'/workmen, Electricity Bills etc.

(Justice S.J. Mukhopadhaya)
Chairperson

(Alok Srivastava)
Member(Technical)

Ar/g