

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI
Company Appeal (AT) (Insolvency) No. 387 of 2018

IN THE MATTER OF:

V. Kanchana

...Appellant

Vs

P. B. Radhakrishnan & Ors.

...Respondents

Present:

For Appellant: Mr. Kaushik N. Sharma, Advocate.

For Respondents:

ORDER

08.08.2018: This appeal has been preferred by shareholder of the Corporate Debtor – ‘M/s Deleo Construction Pvt. Ltd.’, challenging order dated 9th July, 2018 passed by the Adjudicating Authority (National Company Law Tribunal), Single Bench, Chennai in CP/18/(IB)/CB/2018, admitting the application under Section 7 of the Insolvency and Bankruptcy Code filed by Respondent – ‘Mr. P. B. Radhakrishnan’.

2. Learned counsel for the Appellant submits that the Respondent – Mr. P. B. Radhakrishnan is also the Director of the Corporate Debtor and cannot be treated to be a ‘Financial Creditor’. It is submitted that in Form 1, at one place Respondent has been written as ‘Operational Creditor’. However, we find that there is a ‘typographical error’ in one place which will not affect the initiation of Corporate Insolvency Resolution the Process nor can be declared to be illegal.

3. So far as status of Respondent as ‘Financial Creditor’ is concerned, from the record and Form 1, we find that the Corporate Debtor had taken loan from ‘M/s Kotak Mahindra Bank Limited’ and on its request the Respondent paid back the loan of Rs.34,48,500/- on behalf of the Corporate Debtor from its personal

account. As the Respondent paid amount form his personal account on behalf of the Corporate Debtor, he comes within the meaning of 'Financial Creditor' of the Corporate Debtor.

4. We find no ground made out to interfere with the impugned order dated 9th July, 2018 passed by the Adjudicating Authority (National Company Law Tribunal), Single Bench, Chennai in CP/18/(IB)/CB/2018. In absence of any merit, the appeal is dismissed. No cost.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

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