

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 312 of 2019

IN THE MATTER OF:

Pankaj Jajoo

...Appellant

Vs.

Asset Reconstruction Company (India) Ltd.

...Respondent

Present: For Appellant: - Mr. Pratik Tripathi, PCS.

For Respondent: - Mr. Bishwajit Dubey, Advocate.

O R D E R

28.03.2019— An application under Section 7 of the Insolvency and Bankruptcy Code, 2016 (“I&B Code” for short) has been filed by ‘M/s. Asset Reconstruction Company (India) Limited’- (‘Respondent’ herein) for initiation of the ‘Corporate Insolvency Resolution Process’ against ‘M/s. Dhar Textile Mills Limited’- (‘Corporate Debtor’). The said application having admitted by the impugned order dated 15th February, 2019, the Appellant- Shareholder and Managing Director of the ‘Corporate Debtor’ has challenged the same.

2. Learned counsel appearing on behalf of the Appellant submits that the Respondent- ‘M/s. Asset Reconstruction Company (India) Limited’ is not the assignee but a trust of the assignee. It does not come within the meaning of the ‘Financial Creditor’.

Contd/-.....

3. According to him, the main assignee namely— ‘Arcil- The Dhar Textile Mills Ltd. Trust’, who is the ‘Financial Creditor’, has not authorised ‘M/s. Asset Reconstruction Company (India) Limited’- (‘Respondent’ herein) to file an application under Section 7 of the ‘I&B Code’.

4. Learned counsel for the Appellant relied on Form-1 and submits that no ‘Deed of Assignment’ was enclosed in Form-1 by the Respondent to suggest that it is the assignee of the ‘Corporate Debtor’.

5. Mr. Bishwajit Dubey, Advocate appears on behalf of Respondent- ‘M/s. Asset Reconstruction Company (India) Limited’. He has disputed such claim.

6. From the record of the appeal, we find that a ‘Deed of Assignment’ was signed on 29th March, 2006 between the ‘State Bank of India’- (the ‘Principal Financial Creditor’) and the ‘Standard Chartered Bank’ and since 29th March, 2006, the ‘Standard Chartered Bank’ became the assignee. Subsequently, the ‘Standard Chartered Bank’ assigned the debt in favour of the Respondent- ‘M/s. Asset Reconstruction Company (India) Limited’ by ‘Assignment Agreement’ dated 22nd March, 2013.

7. Pursuant to the said 'Deed of Assignment' dated 22nd March, 2013, the Respondent- 'M/s. Asset Reconstruction Company (India) Limited' has become the assignee. It is also verified from the facts that the 'Corporate Debtor' accepted that the Respondent- 'M/s. Asset Reconstruction Company (India) Limited' was the final assignee and issued cheques in favour of the said Respondent.

8. In view of such assignment, we hold that the application under Section 7 filed by Respondent- 'M/s. Asset Reconstruction Company (India) Limited' was maintainable. The Appellant having already enclosed the two aforesaid 'Assignment Deeds', we are not inclined to interfere with the impugned order on the ground that those assignments are not enclosed in Form-1.

9. In absence of any merit, the appeal is dismissed. No cost.

(Justice S.J. Mukhopadhaya)
Chairperson

(Justice A.I.S. Cheema)
Member(Judicial)

Ar/g