

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI
Company Appeal (AT) (Insolvency) No. 57 of 2020

IN THE MATTER OF:

V. Padmakumar

...Appellant

Vs

Stressed Assets Stabilisation Fund (SASF) & Anr.

....Respondents

Present:

For Appellant: Mr. Jayesh Dolia, Mr. R. Chandrachud, Mr. Nitin Thukral and Mr. Karan Sharma, Advocates.

For Respondents:

ORDER

13.01.2020: Respondent – ‘Stressed Assets Stabilization Fund (SASF)’ filed application under Section 7 against ‘M/s Uthara Fashion Knitwear Limited’ for initiation of Corporate Insolvency Resolution Process, which has been admitted by impugned order dated 21st November, 2019 passed by the Adjudicating Authority (National Company Law Tribunal), Division Bench, Chennai.

One of the plea taken by leaned counsel for the Appellant is that notice of demand was not served before the order of admission was passed on 21st November, 2019. Reliance has been placed on the Track Consignment Report of the India Posts to suggest that the notice was served on 2nd December, 2019 that is much after the order of admission. It is submitted that if the notice had been served on the Appellant and ex-parte order had not been passed, the Corporate Debtor could have shown that the application under Section 7 is barred by limitation as the debt was declared Non-Performing Asset (NPA) in the year 2011 and claim was decreed in the year 2013.

A caveat is on the record but it has not been served on the Appellant, therefor the office has not taken cognizance of the same.

Let notice be issued on the Respondents. Counsel for the Appellant will serve a copy of paper book to Ms. Anju Bhushan Gupta, Advocate, who filed Caveat without serving a copy to the Appellant.

Post the case 'for admission (fresh case)' on 23rd February, 2020. Name of the advocate for Caveator (Respondent), Ms. Anju Bhushan Gupta be shown in the cause list.

In the meantime, the Interim Resolution Professional will not issue any publication, if not yet published nor constitute any Committee of Creditors, if not yet constituted. However, he will ensure that the company remains going concern and will take assistance of the (suspended) Board of Directors. The persons who are working will perform their duties including the paid Directors. The person who is authorised to sign the bank cheques may sign cheques only after authorisation of the 'Interim Resolution Professional' with counter signature of the 'Interim Resolution Professional' at the back side of the cheques. In such case, the Bank shall release the payment. The Interim Resolution Professional will place this order before the Banks, in which accounts of Corporate Debtor are maintained. The Bank Account(s) 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

[Justice Bansi Lal Bhat]
Member (Judicial)

[Justice Venugopal M.]
Member (Judicial)

am/sk