

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 250 of 2018

IN THE MATTER OF:

Kanti Commercial Pvt. Ltd.

...Appellant

Vs

Edelweiss Asset Reconstruction Co. Ltd. & Ors.

....Respondents

Present:

For Appellant: Mr. Rajshekhar Rao, Mr. Amit A. Pai, Mr. Karthik and Mr. Sameer, Advocates.

For Respondent: Mr. Ramji Srinivasan, Sr. Advocate with Mr. Bharat Sangal, Ms. Suchitra, Mr. Naveen Hegde, Ms. Babita and Mr. Nandkumar Sagar, Advocates for R-1.

Ms. Misha, Mr. Shantanu Chaturvedi and Ms. Mrida Lakhmani, Advocates for RP.

ORDER

28.05.2018: This is not in dispute that 'M/s Falcon Tyres Ltd.' (Corporate Debtor) obtained loan of Rs.50 Crores from the 'South Indian Bank Ltd.', Mysore Main Branch for the purpose of its expansion by installing additional production capacity. The bank sanctioned the above term loan on 31st December, 2009 and the Corporate Debtor furnished necessary property charge pursuant to 'Agreement to Mortgage Deed' dated 31st August, 2010.

2. Subsequently, the 'South Indian Bank Ltd.' and the Respondent – 'Edelweiss Asset Reconstruction Company Ltd.' entered into an Assignment Agreement on 30th March, 2015, whereby the loan right of South Indian Bank Ltd. so far as relates to the Corporate Debtor were assigned in favour of 'Edelweiss Asset Reconstruction Company Ltd.'. Thereby the Respondent – 'Edelweiss Asset Reconstruction Company Ltd.' become the assignee and came

within the meaning of 'Financial Creditor' under Section 5(7) read with 5(8) of the I&B Code.

3. In view of the aforesaid fact, the submission made by the counsel for the Appellant that the 'Edelweiss Asset Reconstruction Company Ltd.' cannot be treated to be a Financial Creditor is rejected. Admittedly, there is a debt owed by the Corporate Debtor in favour of the South Indian Bank Ltd., now in favour of the Assignee - 'Edelweiss Asset Reconstruction Company Ltd.' and Corporate Debtor defaulted to pay the loan. The application under Section 7 of the I&B Code being complete and there being a debt and default, the Adjudicating Authority (National Company Law Tribunal), Bengaluru Bench by impugned order dated 1st May, 2018 admitted the application, passed order of moratorium and appointed Interim Resolution Professional with certain directions.

4. The stand taken by the learned counsel for the Appellant that some documents which were not enclosed cannot be the ground to reject the application. Further, we find that there is no real existence of dispute. Same plea has also been taken up by the learned senior counsel appearing on behalf of the Respondent. For the aforesaid reason we are not inclined to interfere with the impugned order. We find no merit in this appeal. It is accordingly dismissed.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

am/gc