

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI
Company Appeal (AT) (Insolvency) No. 39 of 2021

In the matter of:

Smt. Raj Kumari

....Appellant

Vs.

M/s. Intec Capital Ltd.

....Respondent

Present:

Appellant: Mr. Krishnendu Datta, Senior Advocate with Mr. Navin Kumar, Mr. Vishwdeep Hooda, Advocates.

Respondent: Mr. Shailesh Yadav, Mr. Chandan, Mr. Ajay Bansal, Advocates.

ORDER

(Through Virtual Mode)

28.01.2021: The issue raised in this appeal preferred against order dated 18th December, 2020 passed by the Adjudicating Authority (National Company Law Tribunal), Allahabad Bench, admitting application of Respondent No.1- 'M/s. Intec Capital Limited'- ('Financial Creditor') filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 is that the threshold limit of Rupees One Crore was not satisfied. Mr. Krishnendu Datta, Senior Advocate representing the Appellant has also invited our attention to Page 137 of the appeal paper book to demonstrate that even date of default has not been specified and even in Annexure-5 forming page 145 of the appeal paper book no date of default is specified. It is, therefore, contended that the order of admission cannot be sustained.

Issue notice upon Respondent. Notice on behalf of Respondent is waived and accepted by Mr. Shailesh Yadav, Advocate. No further notice need be issued to him. Reply affidavit along with Vakalatnama may be filed by the Respondent within 2 weeks. Rejoinder, if any, be filed within 2 weeks thereof.

Contd/-....

Written submissions not exceeding three pages may also be filed by the parties along with the pleadings supported by the relevant case law.

At this stage, we notice that the Corporate Debtor has not been arrayed as party. We direct that the Corporate Debtor through IRP be arrayed as party Respondent No.2. Amendment to this effect shall be carried out by the Appellant in the cause title of the appeal paper book within three days who will also file requisite along with e-mail address and mobile/phone no. of IRP upon whom notice shall be served through any available mode.

We are told that the IRP has constituted the Committee of Creditors and Corporate Debtor is a going concern.

List the appeal 'for admission (after notice)' on 2nd March, 2021.

In the meantime, the 'Interim Resolution Professional' will ensure that the company remains 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 Bansi Lal Bhat]
Acting Chairperson**

**[Dr. Ashok Kumar Mishra]
Member (Technical)**

**[Dr. Alok Srivastava]
Member (Technical)**

AR/g