

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI**

Company Appeal (AT) (Insolvency) No. 60 of 2021

In the matter of:

Mr. Amit Arora

....Appellant

Vs.

Tourism Finance Corporation of India & Anr.

....Respondents

Present:

Appellant: Mr. Virender Ganda, Senior Advocate with Mr. Vishal Ganda, Mr. Ayandeb Mitra, Mr. Aman Chaudhary, Ms. Abushka Sarkar, Ms. Eshna Kumar, Mr. Aditya Maheshwari, Advocates.

**Respondents: Mr. Ashwini Kumar Mata, Senior Advocate with Mr. Nitin Dahiya, Advocate for R1.
Mr. Abhirup Das Gupta, Mr. Ishaan Duggal, Advocates for R2 (RP)**

ORDER

(Through Virtual Mode)

02.02.2021: Several issues have been raised in this appeal preferred against the order of admission of application filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 by 'Tourism Finance Corporation of India' (Respondent No.1 herein).

Mr. Virender Ganda, Senior Advocate representing the Appellant submits that 'Tourism Finance Corporation of India' is not a Financial Creditor and on its own showing there is no default. This apart, it is submitted that the application under Section 7 of the 'I&B Code' was not maintainable for want of authority from the Board of Directors.

Issue notice upon Respondents. Notice on behalf of Respondent No.1 is waived and accepted by Mr. Nitin Dahiya, Advocate. Notice on behalf of Respondent No.2 is waived and accepted by Mr. Abhirup Das Gupta, Advocate. No further notice need be issued to them. Service upon Respondents is complete. Reply affidavits may be filed by the Respondents within 2 weeks. Rejoinder, if any, be filed within 2 weeks thereof.

Contd/-.....

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

Since Committee of Creditors (COC) is stated to have been constituted and some claims have already been filed with the Resolution Professional, we do not deem it appropriate to stall the Corporate Insolvency Resolution Process (CIRP). However, this shall not be construed as a bar for the parties to settle through the statutorily permissible exit route/mechanism.

List the appeal 'for admission (after notice)' on 5th March, 2021.

In the meantime, the '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