

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI**  
**Company Appeal (AT) (Insolvency) No. 137 of 2018**

**IN THE MATTER OF:**

**Abhay Kumar Jain**

**...Appellant**

**Vs**

**Shree Siyaram Automations Pvt. Ltd. & Anr.**

**...Respondents**

**Present:**

**For Appellant: Mr. M. K. Pandey, Mr. Avdhesh Bairwa, Advocates. Mr. Nisar Ahmd, PCS.**

**For Respondents: Mr. Rakesh Kumar and Mr. Sahil Gupta, Advocates for R-1.**

**ORDER**

**30.07.2018:** This appeal has been preferred by Appellant against order dated 13<sup>th</sup> March, 2018 passed by the Adjudicating Authority (National Company Law Tribunal), Special Bench, New Delhi in CP No.(IB)-512(ND)/2017 whereby and whereunder application under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as 'I&B Code') preferred by Respondent – 'M/s Shree Siyaram Automations Pvt. Ltd.' has been admitted, order of moratorium passed and Interim Resolution Professional has been appointed.

2. Learned counsel appearing on behalf of Appellant submitted that the Respondent do not come within the meaning of 'Financial Creditor' as defined under Section 5(7)&(8) of the I&B Code. The Corporate Debtor had invested huge amount to the tune of Rs.80 crore approximately whereas the Respondent invested only a sum of Rs.90 lakh for purchase of a piece of land. It is submitted that the land is vested with the State Government and the parties have moved before the State Government to return of the amount.

3. The aforesaid fact has been disputed by the learned counsel appearing on behalf of the Respondent. According to him the documents brought on record suggest that the Respondent is a 'Financial Creditor', who has invested money for consideration for time value of the money.

4. On hearing the parties and perusal of record, we find that the Corporate Debtor along with Respondent invested for purchase of a piece of land for building infrastructure. The Corporate Debtor invested Rs.80 crore and the Respondent invested Rs.90 lakh. The interest was payable against the said amount which was paid upto 31.03.2017, whereinafter a sum of Rs.9 lakh is stated to be defaulted. The interest payment as was payable on the sum of Rs.6,62,030/- received on 06.05.2015 after deduction of TDS as appear from Form 26AS brought on record. Learned Adjudicating Authority has dealt in detail the aforesaid facts.

5. Aforesaid facts show that the Respondent disbursed the amount against the consideration for the time value of money and thereby come within the meaning of 'Financial Creditor' as defined under Section 5(7) read with (8) of the I&B Code.

6. We find no merit in this appeal. It is accordingly dismissed. No costs.

[Justice S. J. Mukhopadhaya]  
Chairperson

[Justice Bansi Lal Bhat]  
Member (Judicial)

*am/sk*