

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

Company Appeal (AT) (Ins) No. 368 of 2021

IN THE MATTER OF:

Sahara India

...Appellant

Versus

Shri Nandkishor Vishnupant Deshpande

RP & Anr.

...Respondents

Present: -

**For Appellants: Mr. Anando Mukherjee, Mr. Kumar Anurag Singh and Mr.
Zain A Khan, Advocates**

For Respondents: Mr. Nandkishor Vishnupant Deshpande (R1, RP)

Mr. Kaustav Som, R1

Mr. Arjun Krishnan, for R1.

O R D E R

(Virtual Mode)

24.05.2021 Heard Ld. Counsel for the Appellant. He submits that the RP has erroneously held that the debt is not a financial debt but an operational debt and Ld. Adjudicating Authority without any application of the RP under Section 25(1)(j) of the IBC held that the Corporate Debtor has given a preference of disputed transaction, however, the transfer made in the ordinary course of business, therefore, in view of Section 43(3) (a) of the IBC such transfer is not a preferential transaction.

Issue notice.

Shri Arjun Krishnan accepts notice on behalf of the RP (Respondent No. 1). Ld. Counsel for the Appellant is directed to provide the copy of appeal paper book to the Respondent No. 1 Counsel. He seeks and is granted two

weeks' time to file Reply Affidavit. Rejoinder, if any, may be filed within one week thereafter.

Issue notice to the other Respondents by speed post. Requisites alongwith process fee, be filed, if not filed within two days. If the Appellant provides the email id of the Respondents. Let notice also be issued through email.

Meanwhile, any decision taken by the RP/Liquidator is subject to outcome of this Appeal.

Let the matter be fixed for admission (after notice)' on **25th June, 2021**.

[Justice Jarat Kumar Jain]
Member (Judicial)

[Dr. Ashok Kumar Mishra]
Member (Technical)

SC/md.