

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 941 of 2020

IN THE MATTER OF:

Surendra Patwa & Anr.

...Appellants

Versus

Ritwik Finance Co. & Anr.

...Respondents

Present:

For Appellants: Ms. Neha Gupta and Mr. Akshat Agrawal, Advocates.

For Respondents:

ORDER
(Through Virtual Mode)

02.11.2020: Appellants are Ex-Directors (Members of Suspended Board of Directors) of the Corporate Debtor. They are aggrieved of admission of application filed by the Financial Creditor under Section 7 of the I&B Code.

Having heard Ms. Neha Gupta, Advocate representing the Appellants for a while, we find that the Adjudicating Authority (National Company Law Tribunal) Indore Bench at Ahmedabad, Court-I has noticed in the impugned order dated 9th September, 2020 that the Financial Creditor had submitted before it that notice has been served on the Corporate Debtor through paper publication. Thus, the Adjudicating Authority had passed the impugned order of admission of application under Section 7 of I&B Code in ex-parte.

We take note of the submission made by learned counsel for the Appellants that no notice was served upon the Corporate Debtor and even the impugned order does not speak of notice being issued by the Adjudicating Authority. However, since the order is an ex-parte, we deem it appropriate to allow learned

counsel for the Appellants to withdraw the appeal with liberty to agitate the matter before the Adjudicating Authority. The appeal is disposed of as withdrawn giving liberty to Appellant to raise the issue before the Adjudicating Authority in regard to notice not being served on the Corporate Debtor and the impugned order being passed in ex-parte without according opportunity to the Corporate Debtor of being heard. Appellants will be at liberty to demonstrate that no notice was served upon the Corporate Debtor before the impugned order came to be passed. The adjudicating Authority will be within its powers to have a relook at the impugned order if it is convinced that the notice had not been served on the Corporate Debtor before passing of impugned order.

**[Justice Bansi Lal Bhat]
Acting Chairperson**

**[Justice Anant Bijay Singh]
Member (Judicial)**

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

am/gc