

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency)No. 1400 of 2019

IN THE MATTER OF:

Anant Jain & Anr.

.....Appellants

Vs.

M/s. Kaushambi Paper Mills Pvt. Ltd.

.....Respondent

Present :

For Appellant: Mr. Himanshu Tyagi, Mr. Ayush Negi, Advocates

O R D E R

04.12.2019 - The Appellants one of them a Director of M/s Kaushambi Paper Mills Pvt. Ltd. filed an application u/s 7 of the Insolvency & Bankruptcy Code, 2016 ('I&B' Code, for short) for initiation of 'Corporate Insolvency Resolution Process' against the aforesaid 'Corporate Debtor'. The Adjudicating Authority('National Company Law Tribunal') Principal Bench, New Delhi by impugned order dated 1st November, 2019 rejected the application on the stand that Appellants do not come within the meaning of 'Financial Creditors'.

Learned Counsel for the Appellant submits that the Appellants have disbursed loan to the 'Corporate Debtor' which has also been accepted by the

....contd.

Corporate Debtor’ and the Adjudicating Authority. However, the ‘Corporate Debtor’ has not borrowed the money against payment of interest nor raised the amount under any credit facility or for its equivalent amount thus the disbursal does not come within any of the Clause of Sub-Section (5) of Section 8 which defines ‘*Financial Debt*’.

In this background, Appellants not being a ‘Financial Creditor’ and only ‘Unsecured Creditor’, the application u/s 7 of the ‘I&B’ Code filed by them was rightly rejected by the Adjudicating Authority.

The appeal is accordingly dismissed. No costs.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

[Justice Venugopal M.]
Member (Judicial)

ss/sk