

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Ins.) No. 314 of 2019

IN THE MATTER OF:

Soma Enterprise Ltd.

...Appellant

Versus

State Bank of India

...Respondent

Present:

For Appellant :

**Mr. Arun Kathpalia, Senior Advocate with
Mr. Uttam Datt and Ms. Sonakshi Singh, Advocates**

O R D E R

29.03.2019 Having heard learned counsel for the appellant and being satisfied with the grounds, the delay of 11 days in preferring the appeal is condoned.

I.A. No. 1143 of 2019 stands disposed of.

This appeal has been preferred by the 'Corporate Debtor' - 'Soma Enterprises Limited' against the order dated 12th February, 2019 whereby an application under Section 7 of the 'I&B Code' filed by the 'State Bank of India' has been admitted. However, this appeal is not maintainable at the instance of the 'Corporate Debtor' in view of the decision of the Hon'ble Supreme Court in "*Innoventive Industries Ltd. v. ICICI Bank*", (2018) 1 SCC 407] (Para 11),.

Learned counsel for the appellant submits that the impugned order dated 12th February, 2019 has been stayed by the Hon'ble Supreme Court in the Writ Petition (Civil) No. 1411/2018 dated 20th February, 2019 filed by the 'Corporate Debtor'. In that view of the matter as the impugned order is under consideration

before the Hon'ble Supreme Court, we are not inclined to interfere with the same apart from the fact that the appeal is not maintainable at the instance of the 'Corporate Debtor'.

The appeals is disposed of with liberty to the shareholder/directors to challenge the order, if impugned order dated 12th February, 2019 is revived. If the impugned order dated 12th February, 2019 is revived due to dismissal of the Writ Petition by the Hon'ble Supreme Court, in such case the period of the pendency of the case before the Hon'ble Supreme Court may be extended to count the delay.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice A.I.S. Cheema]
Member (Judicial)

/ns/sk/