

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 123 of 2017

IN THE MATTER OF:

**Shri D.R. Balakrishna Raja,
Director**

...Appellant

Vs.

**Indian Bank
M/s. B.K.R. Hotels & Resorts Pvt. Ltd.**

**...1st Respondent
...2nd Respondent**

Present:

For Appellant:-

**Mr. Kumarpal R. Chopra and Shri Karan
Tarwar, Advocates.**

For 1st Respondent:-

Mr. Brijesh Kumar Tamber, Advocate

For 2nd Respondent

**Shri Amit Dhingra and Amandeep Bawa,
Advocates**

O R D E R

20.11.2017 This appeal has been preferred by the appellant against order dated 30th May, 2017 passed by the Adjudicating Authority (National Company Law Tribunal), Division Bench, Chennai in CP/472/(IB)/CB/2017 (IND/822/(IB)/CB/2017) whereby and whereunder the application preferred by the respondent (Financial Creditor) under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the 'I&B Code') read with Rule 4 Insolvency and Bankruptcy (Application to Adjudicating authority) Rules, 2016 has been admitted, order of moratorium has been passed and the Interim Resolution Professional (IRP) has been appointed with certain directions.

We have heard the learned counsel appearing on behalf of the appellant, the learned counsel appearing on behalf of the respondent and the Interim Resolution Professional appearing on behalf of the Corporate Debtor.

Learned counsel for the appellant has submitted that the impugned order dated 30th May, 2017 has been passed by the Adjudicating Authority in violation of rules of natural justice without notice to the Corporate Debtor.

However, such submission has been objected by the learned counsel for the respondent on the ground that on the date of admission, the Corporate Debtor appeared through their counsel Mr. T. Moorthy, who raised all the objections and after hearing the parties, the impugned order was passed by the Adjudicating Authority.

On hearing the parties, we find from the impugned order that the Corporate Debtor has appeared through counsel and the Adjudicating Authority noticed the submissions made on behalf of the Corporate Debtor. The Adjudicating Authority has specifically mentioned that “on perusal of the application along with the record indicates that the requirement of law are fulfilled and the counsel representing the Corporate Debtor neither resisted the application nor raised any objection”. In view of the fact that counsel for the Corporate Debtor was heard and the records is complete and in absence of any other defect, we hold that the Adjudicating Authority rightly admitted the application under Section 7 and passed the impugned order.

We find no merit in this appeal. It is accordingly dismissed. However, on the facts and circumstances of the case, there shall be no order as to cost.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansilal Bhat]
Member(Judicial)

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

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