

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

**Company Appeal (AT) (Insolvency) No. 1037 of 2019**

[Arising out of Order dated 28<sup>th</sup> August, 2019 passed by the Adjudicating Authority (National Company Law Tribunal), Guwahati Bench, Guwahati in CP (IB) No.13/GB/2019]

**IN THE MATTER OF:**

Brahmaputra Overseas Ltd.,  
Brahmaputra House,  
A-7, Mahipalpur,  
New Delhi – 110 037.  
Through its Director

.... Appellant

Vs

1. Allahabad Bank  
Head office: No.2,  
Netaji Subhash Road,  
Kolkata – 1, West Bengal.

Branch Office: Lakhtokia Branch,  
S.S. Road, Guwahati, 781001,  
District – Kamrup (M), Assam.

....Respondent No.1

2. Corporation Bank,  
Head office: Mangladevi  
Temple Road, Pandeswar,  
Mangalore – 575001, Karnataka.

Branch Office: Corporation Bank,  
M-34, Old DLF Market,  
Sector 14, Gurgaon 122001.

....Respondent No.2

3. Amit Pareek  
Interim Resolution Professional of  
Meghalaya Infratech Limited,  
4<sup>th</sup> Floor, Ram Prasad Complex  
Chatribari, Guwahati – 780 001  
Assam.

....Respondent No.3

**Present:**

**For Appellant:                    Mr. Rajsekhar Rao, Mr. Dushyant Manocha,  
   Ms. Anannya Ghosh and Mr. Vinayak,  
   Advocates.**

## J U D G M E N T

### SUDHANSU JYOTI MUKHOPADHAYA, J.

The Allahabad Bank & Corporation Bank ('Financial Creditors') moved an application under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the '**I&B Code**') to initiate 'Corporate Insolvency Resolution Process' against 'Meghalaya Infratech Ltd.' ('Corporate Debtor'). The Adjudicating Authority (National Company Law Tribunal), Guwahati Bench, Guwahati admitted the application by impugned order dated 28<sup>th</sup> August, 2019.

2. The learned Counsel appearing on behalf of the Appellant-Shareholder submitted that the application under Section 7 of the I&B code is barred by limitation. The accounts of the 'Principal Borrower' were classified as NPA on 1<sup>st</sup> November, 2014 and 30<sup>th</sup> April, 2015 respectively. It was further submitted that the Bank has already initiated recovery proceedings against the 'Corporate Debtor' by filing OA No.473 of 2017 before the Debts Recovery Tribunal. The counter claim has also been filed by 'Corporate Debtor' in OA No.67 of 2018, which are pending for decision.

3. The learned Counsel for the Appellant submitted that the Respondents having elected to proceed against the Company, which is 'Corporate Guarantor', cannot be allowed to proceed against the Appellant for the same alleged default.

4. From the record, we find that the Term Loan was sanctioned by Allahabad Bank vide letter dated 25<sup>th</sup> September, 2010. Thereafter, M/s. Meghalaya Infratech Ltd. ('Corporate Debtor') requested for modification of the Term Loan of Rs.95.50 crores, which was approved by the Competent Authority by letter dated 18<sup>th</sup> November, 2010. Another, Term Loan (Annexure A4) of Rs.73 crores was sanctioned by the Chief Manager of the Corporation Bank on 5<sup>th</sup> July, 2012 in favour of Meghalaya Infratech Limited. The loan tenure was eight years seven months, which included balance construction period of one year and ten months and Moratorium Period of

three months and repayment period of six years and six months. The terms and conditions of repayment of the term loan were shown for the financial year ended in March 31<sup>st</sup> 2015 and quarterly installments are to be paid by the year 2021. In the meantime, the 'Corporate Debtor' defaulted to pay the instalments. For the said reason, the Bank moved before the Debts Recovery Tribunal, but a counter claim was also filed in the said proceedings.

5. The facts as discussed above, show that Appellant defaulted to pay the amount in recent years. Keeping in view facts of the matter & specially Annexure A4, the application under Section 7 of the I&B Code is not barred by limitation. We find no merit in this appeal. It is accordingly dismissed. No costs.

[Justice S. J. Mukhopadhaya]  
Chairperson

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

[Kanthi Narahari]  
Member (Technical)

**NEW DELHI**

18<sup>th</sup> December, 2019

Ash