

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 1453 of 2019

IN THE MATTER OF:

Rashesh Purohit

...Appellant

Versus

Punjab national Bank & Anr.

...Respondents

Present:

For Appellant: Mr. Saurabh Jain, Mr. Bhawishya Singh and Mr. Samarth Arora, Advocates

For Respondent: Mr. Karan Gandhi and Ms. Sudiksha Saini, Advocates for Interim Resolution Professional.

Mr. Hashmat Nabi and Mr. Farah Naaz, Advocates for Respondent No. 1- PNB Bank.

O R D E R

17.02.2020 Perused orders dated 16th December, 2019. In this Appeal limited notice was issued to find if the parties have reached the terms of settlement or not. Till today, parties for both the sides are trading changes against each other why settlement has not been possible. The parties have not been able to settle between them.

2. The learned counsel for the Appellant submits that there is circular dated 1st January, 2019 issued by Reserve Bank of India, copy of which is at page 243 of the Appeal paper book. It is stated that as per this circular the Banks are required to consider the case of 'MSME' for restructuring of dues by way of 'OTS' and should have given time of one year.

3. The learned counsel for the Appellant is urging that because the 'Corporate Debtor' is 'MSME', the bank should have accepted the settlement offered.

4. The Learned counsel for the Respondent is submitting that although on 16th December, 2019, the Appellant had stated that the Appellant would settle the amount of 'NPA', the Directors of the Company when contacted the Bank offered less amount to be repaid in a longer period and thus, the settlement could not become possible.

5. As far as Circular is concerned, it is a matter for the Appellant and the Bank to take up with the 'RBI' if they have grievance against each other. The Circular does not create bar to filing of Application under Section 7 of IBC.

6. Coming to the impugned order, what appears is that the Appellant claimed that the Company availed the facility of over draft in an around January, 2017. It is stated that due to goods and services tax imposition, the Company suffered in its economics. It is stated that the Appellant tried to settle with the Bank but the bank did not accept the settlement and the application under Section 7 of the 'Insolvency and Bankruptcy Code, 2016 was filed and it is admitted.

7. Impugned Order found that there is debt due of more than Rs. 1 lakh and default is there. The Account of Corporate Debtor was classified as NPA by Bank on 12.10.2018. There appears no error in the Impugned Order admitting application. The admission Order appears to be justified.

8. On merits of the admission of the Section 7 Application there is no case made out in Appeal. We do not find any reasons to interfere. The Appeal is

disposed of without interfering in the impugned order. No orders as to costs.

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

[Justice A.B. Singh]
Member (Judicial)

[Kanthi Narahari]
Member (Technical)

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