

From the record, we find that an award has been passed by the Arbitral Tribunal in favour of the Appellant – ‘M/s. Loyal Credit and Investments Ltd.’ against the Respondent – ‘M/s. Cosmopolis Properties Pvt. Ltd. (Corporate Debtor) on 28th June, 2016. Admittedly, the Respondent has moved an application under Section 34 of the Arbitration and Conciliation Act, 1996 before the Hon’ble High Court of Judicature at Madras and the matter is pending.

In the circumstances, we hold that it cannot be alleged that there is a default and application under Section 7 was not maintainable. However, the impugned order dated 13th November, 2019 passed by the Adjudicating Authority (National Company Law Tribunal), Division Bench, Chennai and the order passed by this Appellate Tribunal will not come in the way of the Appellant for deciding the issue, which is pending for consideration before the Hon’ble High Court of Judicature at Madras.

The appeal stands dismissed with aforesaid observations. No costs.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansilal Bhat]
Member (Judicial)

/ns/gc/