

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 274 of 2017

IN THE MATTER OF:

T.R. Jawahar & anr.

...Appellants

Versus

Edelweiss Asset & anr.

...Respondents

Present:

**For Appellants: Shri Vivek Sibal, Ms. Pooja M. Saigal and Ms. Khyati,
Advocates**

**For Respondents : Shri Sajeew Puri, Shri Dheeraj Nair and Shri Kunal
Mimani, Advocates**

ORDER

20.11.2017 This appeal has been preferred by T.R. Jawahar, Shareholder/ Director of Frontline Printers Private Limited (Corporate Debtor) and another against order dated 2nd November, 2017 passed by the Adjudicating Authority (National Company Law Tribunal), Chennai in CP/606/(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 of 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.

The only plea taken by the learned counsel for the appellants is that the respondent(s) has filed the application under Section 7 of the I & B Code in the

capacity of 'Trustee' and not as a 'Financial Creditor'. Reliance has been placed on part-I of Form I wherein it mentioned that it is 'Acting in its capacity as Trustee for EARC Trust SC-Trust-SC 19 (Series IV)'. However, on perusal of the record, we find that in Part-I of Form I, it has been mentioned that the respondent is a 'Financial Creditor'. Its date of incorporation as financial creditor has been shown as 5th October, 2007 with the identification number as financial creditor.

It is true that the respondent is a 'trustee' but we find that the respondent is also a company registered under the Companies Act, 1956 and come within the definition of 'Financial Creditor' as defined under sub-section (7) read with sub-section (8) of Section 5 of the I & B Code.

In view of the fact that the respondent has filed the application in the capacity of the 'Financial Creditor' and the application is complete, we find no ground to interfere with the impugned order. In absence of any merit, the appeal is dismissed. No cost.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansilal Bhat]
Member(Judicial)

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

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