

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 384 of 2018

IN THE MATTER OF:

Apogee Manufacturing Pvt. Ltd.

...Appellant

Versus

Hari Kishan Sharma & Ors.

...Respondents

Present:

For Appellant : **Mr. Anirudh Wadhwa and Mr. Hires Choudhary,**
Advocates

For Respondents : **Mr. Vijay Shankar, Advocate for Victory Infra**
Projects Pvt. Ltd.

ORDER

25.07.2018 During the ‘corporate insolvency resolution process’, by the ‘Insolvency & Bankruptcy Code (Amendment) Ordinance, 2018’ (No. 6 of 2018) with effect from 6th June, 2018 the allottees of real estate purchase have been treated to be the ‘Financial Creditor’. This is accepted by the Adjudicating Authority by the impugned order dated 12th June, 2018.

Learned counsel appellant submitted that the Amendment No. 6 of 2018 which came into effect from 6th June, 2018 cannot operate retrospectively. However, such submission cannot be accepted as the ‘corporate insolvency resolution process’ is ongoing and information memorandum has not yet been prepared. In the meantime as ‘Resolution Professional’ is required to collate all claim, while accepting the claim of allottees of real estate purchase the

'Resolution Professional' will have to treat them as 'Financial Creditors' because he is to decide the claim after 6th June, 2018.

We find no merit in this appeal. It is accordingly dismissed.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

/ns/sk/