

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 78 of 2019

IN THE MATTER OF:

Yogesh Bosmiya & Ors.

...Appellants

Vs.

**India Asses Growth Fund Through
Essel Finance Advisors & Managers LLP & Anr.**

...Respondents

Present: For Appellants: - Mr. Harihar Bhaye, Advocate.

**For Respondents: - Mr. Gaurav Varma, Mr. Kaustubh
Prakash, Advocates for R-1 & 2.**

ORDER

25.01.2019— This appeal has been preferred by Yogesh Bosmiya & Ors., Shareholders of 'Rashmi Housing Private Limited'- ('Corporate Debtor') against the order dated 14th December, 2018 passed by the Adjudicating Authority (National Company Law Tribunal), Mumbai Bench, Mumbai, whereby and whereunder the application under Section 7 of the Insolvency and Bankruptcy Code, 2016 ("I&B Code" for short) filed by 'India Asses Growth Fund through Essel Finance Advisors and Managers LLP & Anr.', has been admitted, order of 'Moratorium' has been passed and 'Interim Resolution Professional' has been appointed.

2. On hearing learned counsel for the parties, we find that there being a debt and default and the application being complete, the Adjudicating Authority admitted the application under Section 7.

Contd/-.....

3. Learned counsel for the Appellant submits that the 'Corporate Debtor' is a solvent Company and amount is lying in the Escrow Account and they intend to settle the claim. The 'Corporate Debtor' wanted six months' time to settle the matter but such time was not granted. However, such ground cannot be taken into consideration to set aside the impugned order of admission dated 14th December, 2018.

4. However, we make it clear that this order will not come in the way of the Appellants or Shareholders of the 'Corporate Debtor' to settle the claim of the creditors and take advantage of Section 12 A of the 'I&B Code', to which, no objection raised by the 1st and 2nd Respondents.

5. The appeal stands disposed of with aforesaid observations.

(Justice S.J. Mukhopadhaya)
Chairperson

(Justice Bansi Lal Bhat)
Member(Judicial)

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