

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 506 of 2019

IN THE MATTER OF:

R. Arumugasamy

...Appellant

Versus

United Bank of India & Anr.

...Respondents

Present:

For Appellant :

Mr. M.A. Chinnasamy, Mr. V. Senthil Kumar and Mr. C. Rupavathy, Advocates

For Respondents :

Mr. P.V. Dinesh, Mr. Ashwini Kumar Singh and Mr. R.S. Lakshman, Advocates for 'Resolution Professional'

Mr. Santosh Kumar and Mr. Amit Kumar Dhal, Advocates

ORDER

01.08.2019 This appeal has been preferred by 'R. Arumugasamy', Managing Director of 'M/s. R.A. Samy Trading Private Limited' (Corporate Debtor) against order dated 30th April, 2019 passed by the Adjudicating Authority (National Company Law Tribunal) Division Bench, Chennai whereby application u/s 7 of the 'Insolvency and Bankruptcy Code, 2016 (for short, 'the **I&B Code**') filed by United Bank of India (Financial Creditor) has been admitted. The sole ground taken by the Appellant is that the Adjudicating Authority has passed the order without taking counter-statement of the Appellant. However, from the impugned order dated 30th April, 2019 we find that the 'Corporate Debtor' was noticed and heard and one Mr. Naveen Kumar Murthi and Mr. G.V. Mohan Kumar, Advocates appeared on behalf of the 'Corporate Debtor'. The other ground taken by the Appellant is that the Adjudicating Authority has failed to consider that the 'Corporate Debtor' had made the payment. However, it is not disputed that there is a 'part default' which is much more than Rupees One Lakh (i.e. Rs. 9.5 Crores) and the 'Corporate Debtor' has failed to pay. Apart from the fact that there is no merit in this appeal, it is informed by the learned

counsel appearing on behalf of the 'Resolution Professional' that the Appellant and the other Directors have not handed over the rest of the referred documents and possession of the assets to the 'Resolution Professional'. On 10th May, 2019 this Appellate Tribunal observed that the Appellant would hand over all the documents which were in their possession. Today, it is informed by the learned counsel for the Appellant that the same has been handed over yesterday but it is denied by the learned counsel for the 'Resolution Professional'.

Having heard the learned counsel for the Appellant and the learned counsel appearing on behalf of the United Bank of India on merit, we do not find any reason to interfere with the impugned order. This apart the Appellant and the Directors and Officers had not handed over the assets and documents of the 'Corporate Debtor' to the 'Resolution Professional'. It will be open to the 'Resolution Professional' to move appropriate application before the Adjudicating Authority including the application for initiation of action under Chapter VII of Part II of the 'I&B Code'.

The appeal is dismissed with aforesaid liberty to the 'Resolution Professional' with costs of Rupees One Lakh, which is to be paid by the Appellant to the 'Corporate Debtor' through 'Resolution Professional'.

[Justice S.J. Mukhopadhaya]
Chairperson

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

[Kanthi Narahari]
Member (Technical)

/ns/gc