

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI
Company Appeal(AT) (Insolvency) No. 376 of 2020

IN THE MATTER OF:

Mr. Dhananjay Krishnanath Gaikwad
R/o Plot No. 56, Krushna,
Avdhoot Nagar, Baramati,
Pune-413 102

...Appellant

Vs

1. ICICI Bank Ltd

Registered Office:

ICIC Bank Tower, Near Chakli Circle

Old Padra Road, Vadodara- 390 007

Corporate Head Office:

ICICI Bank Towers, Bandra Kurla Complex,

Badra (East), Mumbai 400 051

....Respondent
No. 1

2. Tuljabhavani Cold Storage Pvt. Ltd.

Plot No. 56, Krushna, Avdhoot Nagar, Baramati,

Pune- 413 102

Through: Mr. Gaurav Adikia,

Interim Resolution Professional,

703, C-Wingh Marathon Innova,

G.K. Marg, Lower Parel,

Mumbai – 400 013

Respondent
No. 2

Present:

For Appellant: Mr. Aaditya A. Pande, Advocate

For Respondents: Ms. Smriti Churiwal, Advocate for Respondent
No. 1

Mr. Aakash Sherwal and Mr. Tushar Mudgil,
Advocates for Respondent No. 2

ORDER

(Through: Virtual Mode)

24.08.2020

Heard learned Counsel for the Appellant.

2. Learned Counsel for the Appellant- Shri Aaditya A. Pande is submitting that the Appellant is ready to settle the dues of Financial Creditor- ICICI Bank Ltd. but the Bank is not responding. Learned Counsel for the Respondent No. 1-Bank submits that the Bank will respond if a concrete proposal is received.

3. We have gone through the Appeal. Respondent No. 1- Financial Creditor filed application under Section 7 of Insolvency and Bankruptcy Code, 2016 (In short '**IBC**') before the Adjudicating Authority (National Company Law Tribunal- Court-III, Mumbai Bench) against the Respondent No. 2- Corporate Debtor for outstanding dues. The Application came to be admitted. Against the admission of the Application, the instant Appeal has been filed by the Appellant claiming to be Director of the Corporate Debtor. The Appellant states that the Corporate Debtor has always shown interest in repayment of the loan taken and submits that the Corporate Debtor was in grave financial difficulty and so could not repay the loan amount. Appellant further claims that the Adjudicating Authority should have given opportunity to the Corporate Debtor to raise money for repayment of loan. It is stated that the Bank is claiming more than Rs. 900 lakhs.

4. From the impugned order dated 24.02.2020 it is clear that debt due and default in repayment was not disputed. The only grievance of the Appellant is that time should have been given by Adjudicating Authority to the Appellant-Corporate Debtor to pay back the Bank.

5. It is apparent from the Impugned Order as well as the Appeal and the submissions made that till now actual settlement has not happened. Considering the nature of proceeding under IBC, the matter cannot be allowed

to be dragged endlessly. Adjudicating Authority considered and record shows the debt due and default. We do not find any fault with the Adjudicating Authority, which after giving chance to the Corporate Debtor, went ahead to admit the Application.

6. If Appellant wants to settle, the proceeding under Section 12-A of IBC is still available to the Appellant, if so desired.

7. We do not find any reason to interfere with the Impugned Order and Corporate Insolvency Resolution Process initiated. It is stated that Committee of Creditors has already been constituted.

8. The Appeal is dismissed. The Appellant is at liberty resort to Section 12-A of IBC proceeding, if so desired. The same will be processed as per law. No orders as cost.

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

[Justice Anant Bijay Singh]
Member (Judicial)

(Kanthi Narahari)
Member(Technical)

Akc/Mn