# NATIONAL COMPANY LAW APPELLATE TRIBUNAL <u>NEW DELHI</u>

## Company Appeal (AT) (Insolvency) No. 565 of 2019

#### **IN THE MATTER OF:**

K.K. Kohli & Ors.

...Appellants

Versus

M/s. Trustworthy Gems & Jewellers Pvt. Ltd. ....Respondent

## Company Appeal (AT) (Insolvency) No. 566 of 2019

### **IN THE MATTER OF:**

Radha Kohli & Ors.

...Appellants

Versus

M/s. Logical Jewellers Pvt. Ltd.

...Respondent

<u>Present:</u> For Appellant : Mr. Uddyam Mukherjee, Mr. Rajeev Sharma and Mr. T. Rajat Krishna, Advocates

### <u>O R D E R</u>

**24.05.2019** Learned counsel for the Appellants submits that the Appellant(s) being a shareholder, before the change of the name of the business, the Appellants have deposited certain amount through cheque on behalf of the 'Corporate Debtor' and, therefore, the Appellants claimed to be a 'Financial Creditors'.

Learned counsel for the Appellants referred to the 'Memorandum of Understanding' dated 14<sup>th</sup> May, 2008 but we find the 'Memorandum of Understanding' has reached between the 'M/s. SRS I-Tech Private Limited' (formerly known as M/s. K.K. Kohli & Brothers Private Limited) and 'M/s. SRS Aviations Private Limited', pursuant to which certain amounts were made. However, there is nothing on record to suggest that any amount which has been deposited by the Appellants with 'M/s. Trustworthy Gems & Jewellers Private Limited' for a time value of money. Whatever amount has been deposited being the loan, if taken, does not mean that all the 'creditors' claims to be 'Financial Creditors' within the meaning of Section 5(7) r/w Section 5(8) of the Insolvency & Bankruptcy Code, 2016.

In view of the aforesaid reasons, while we condone the delay of 9 days, we are not inclined to interfere with the impugned order dated 2<sup>nd</sup> January, 2019, we dismiss both the appeals.

[Justice S.J. Mukhopadhaya] Chairperson

> [Kanthi Narahari] Member (Technical)

/ns/gc

Company Appeal (AT) (Insolvency) Nos. 565 & 566 of 2019