

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 90 of 2017
(Under Section 61 of the Insolvency and Bankruptcy Code, 2016 against
order dated 29.05.2017 passed by National Company Law Tribunal,
Principal Bench in C.P.(IB) No.240/KB of 2017)

IN THE MATTER OF:

**West Bengal Essential Commodities
Supply Corporation Ltd.**

...Appellant

Versus

Bank of Maharashtra

...Respondent

Present: For Appellant: - Shri Subhasish Bhowmick, Advocate

ORDER

13.07.2017 This Appeal has been preferred by the appellant – West Bengal Essential Commodities Supply Corporation Ltd. against order dated 29th May, 2017 passed by Adjudicating Authority (National Company Law Tribunal) Kolkata Bench in C.P. (IB) No.240/KB/2017, whereby the application preferred by respondent-Financial Creditor under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as “I&B Code, 2016”) has been admitted, declaration of moratorium and public announcement order has been ordered and Interim Resolution Professional (IRP) has been appointed for ascertaining the particulars of creditors and convening a Committee of Creditors for appointment of Resolution Professional and for evolving a resolution plan.

Learned counsel appearing on behalf of the appellant submitted that the appellant is a State Government undertaking and dealing with poor farmers. It is supplying essential commodities to the farmers and settlement talks are going on between the appellant and the Financial Creditors. However, such ground cannot be accepted to interfere with the impugned order dated 29th May, 2017 passed by

learned Adjudicating Authority Kolkata Bench under Section 7 of 'I & B Code' 2016. The learned Adjudicating Authority having noticed that the application preferred by the respondent Financial Creditor is complete and in absence of any defect, admitted the application.

In absence of any infirmity, we are not inclined to interfere with the impugned order.

However, we make it clear that after ascertaining the particulars of the creditors, pursuant to public announcement made in the newspaper, if the appellants intends to settle the dispute with the respondents by paying Rs.27.93/- crores (the amount as owned by the creditors) and if rest of the creditors are also satisfied by the appellant, in such case, it will be open to the appellant to request the learned Adjudicating Authority, Kolkata Bench to close the Resolution Process having satisfied all the creditors. In such case, the Adjudicating Authority will consider the request and will pass appropriate order un-influenced by the impugned order dated 29th May, 2017 and the order passed by this Appellate Tribunal.

The Appeal stands disposed of with the aforesaid observation

[Justice S.J. Mukhopadhaya]
Chairperson

[Balvinder Singh]
Member (Technical)