

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 123 of 2019**  
**(arising out of order dated 25<sup>th</sup> April, 2018 passed by National Company Law Tribunal, Hyderabad Bench, Hyderabad in C.P. (IB) No. 497/7/HDB/2018)**

**IN THE MATTER OF:**

**Shashi Mohan Garg,**  
7, Eastern Avenue,  
Maharani Bagh,  
New Delhi

**...Appellant**

**Versus**

**1. International Asset Reconstruction  
Company Pvt. Ltd.,**  
R/o 709, 7<sup>th</sup> Floor,  
Ansal Bhawan 16,  
Kasturba Gandhi Marg,  
New Delhi – 110 001.

**2. M/s. Atlanti Spinning and  
Weaving Mills Limited  
Through Shaik Gouse,  
Resolution Professional,**  
Flat No. 401, Siddhartha Residency,  
Plot No. 56, Sy. No. 48,  
Behind Hotel Best Western Jubilee,  
Ridge, Kavuri Hills, Phase-I,  
Madhapur,  
Hyderabad – 500 034.

**...Respondents**

**Present:**

**For Appellant :** Mr. Krishnendu Datta, Mr. Nakul Mohta, Mr. Ankur Goel, Mr. Johnson Subba and Ms. Pallavi Srivastava, Advocates

**For Respondents:** Mr. Mithun Shashank, Mr. Mukunda Maminidipudi, and Mr. Vasanth Bharani, Advocates for Respondent No. 1

**J U D G M E N T**

**SUDHANSU JYOTI MUKHOPADHAYA, J.**

The Appellant - shareholder of M/s. Atlanti Spinning & Weaving Mills Ltd. (Corporate Debtor) has preferred this appeal against order dated 9<sup>th</sup>

October, 2018 passed by the Adjudicating Authority (National Company Law Tribunal), Hyderabad Bench, Hyderabad. The appeal has been filed after the delay of 270 days on the only ground that the Appellant had no knowledge about the impugned order. Learned counsel appearing on behalf of the Appellant submitted that the impugned order was passed by the Adjudicating Authority without notice to the 'Corporate Debtor'. However, from the impugned order we find that after notice nobody appeared, and, therefore, the Adjudicating Authority noted in the order sheets that nobody appears on behalf of the 'Corporate Debtor'.

2. When we ask the counsel to address the case on merit, the only ground taken is that the application under Section 7 of the 'Insolvency & Bankruptcy Code, 2016' (for short, the '**I&B Code**') was barred by limitation.

3. From the record, we find that the application under Section 7 of the I&B Code was filed by 'International Asset Reconstruction Company Private Limited'. The 'Corporate Debtor' having defaulted in repaying the amount of Rs. 70,22,04,757.31 as on 15<sup>th</sup> May, 2018, the petition was filed under Section 7 of the I&B Code after serving a copy of the same to the 'Corporate Debtor'.

4. It further appears that the 'Corporate Debtor' had taken loan from Allahabad Bank, Ratnakar Bank Limited and Axis Bank Limited respectively. IDBI, Allahabad Bank (now IARC) and SBoP had moved before the 'Debt Recovery Tribunal' ('DRT'), Mumbai by filing Original Application No. 292/2010. Since December, 2013 the 'Corporate Debtor' proposed for OTS and the latest proposal for OTS was dated 23<sup>rd</sup> September, 2015. Notice was sent to the 'Corporate Debtor' by order dated 7<sup>th</sup> September, 2018. During

the pendency of the case, the 'Assignment Agreement' was reached between the aforesaid 'Financial Creditor' with the Respondent – 'International Asset Reconstruction Company Private Limited' on 15<sup>th</sup> February, 2014, 26<sup>th</sup> March, 2014 and 29<sup>th</sup> March, 2014. A notice was issued to the 'Corporate Debtor' by the Tribunal vide its order dated 7<sup>th</sup> September, 2018. The 'postal receipt' along with 'postal track record' showing the delivery status and it was shown consignment notice issued on the 'Corporate Debtor' served was also filed. In spite of the service of notice on the 'Corporate Debtor' failed to appear. All these facts have been noticed by the Adjudicating Authority while passing the order.

5. In the aforesaid background and in view of the fact that the appeal is barred by limitation as more than 240 days have passed, if we exclude 30 days of filing the appeal, we have no jurisdiction to condone the delay. As there is no ground also to interfere with the impugned order, the appeal is dismissed. No costs.

[Justice S.J. Mukhopadhaya]  
Chairperson

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

[ Kanthi Narahari ]  
Member (Technical)

New Delhi

30<sup>th</sup> May, 2019

/ns/