

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 696 of 2019

IN THE MATTER OF:

Mr. Koshy Varghese

...Appellant

Vs.

Mr. John Varghese & Anr.

...Respondents

Present: For Appellant: - Mr. Rana Mukherjee, Senior Advocate with Ms. Daisy Hannah, Mr. Nikhil Swami and Ms. Divya Swami, Advocates.

For Respondents: -None

O R D E R

10.07.2019— Mr. John Varghese, through his authorised Power of Attorney Holder Smt. M. Jamuna Rani, filed application under Section 7 of the Insolvency and Bankruptcy Code, 2016 ("I&B Code" for short) against 'M/s. Value Designbuild Private Limited'- ('Corporate Debtor') which has been admitted by the impugned order dated 10th January, 2019.

2. The appeal has been preferred by the Promoter. He has taken one of the plea that he is ready to pay the admitted dues to the Respondent- 'Financial Creditor'.

3. Learned counsel appearing on behalf of the Appellant further submits that 'HDFC Bank' and other Home Buyers have already taken

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up the matter and decided the issue under Section 12A and the matter thereafter was placed before the Adjudicating Authority (National Company Law Tribunal), Bengaluru Bench, for withdrawal of application under Section 7 of the 'I&B Code'.

4. The present appeal has been preferred after delay of 112 days and in the light of the proviso to sub-section (2) of Section 61, this Appellate Tribunal has no jurisdiction to condone the delay. For the said reason, we are not expressing any opinion with regard to the impugned order dated 10th January, 2019.

5. However, it is made clear that if the application under Section 12A is not entertained by the Adjudicating Authority that may give a fresh cause of action to the Appellant to move against the said order.

The appeal is dismissed being barred by limitation with aforesaid observations. No costs.

(Justice S.J. Mukhopadhaya)
Chairperson

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

(Kanthi Narahari)
Member(Technical)

Ar/g