

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No.329 of 2019

IN THE MATTER OF:

Mr. Raushan Prakash
(Shareholder and Ex-Director) Appellant

Vs

Mr. Kapil Arora & Anr. Respondents

Present:

**For Appellant: Mr. C.S. Gupta and Mr. Anand Shukla,
Advocates.**

For Respondents: Ms. Prachi Johri, Advocate.

O R D E R

10.05.2019 Mr. Kapil Arora (Financial Creditor) filed application under Section 7 of the Insolvency & Bankruptcy Code, 2016 (I&B Code) against Vyom Infrastructure and Projects Pvt. Ltd. (Corporate Debtor), which having been admitted by the Adjudicating Authority (National Company Law Tribunal), Principal Bench, New Delhi on 12th February, 2019, the Appellant - Mr. Raushan Prakash (Shareholder and Ex-Director) challenged the same.

2. Initially, the Counsel for the Appellant submitted that the Appellant wants to settle the dispute and pay the creditors (on 25th April, 2019). Today, it is informed that the Appellant could not settle the matter with the Respondents and still the negotiation is going on, which is disputed by the Counsel for the Respondent.

3. The contrary argument is now made that the application under Section 7 is barred by limitation and there is no debt payable in the eyes of law.

4. From the record, we find that 'Corporate Debtor' issued cheques in favour of the 'Financial Creditor' and entered into revised loan agreement on 7th April, 2015 and, inter alia, issued different cheques including the cheques dated 1st September, 2015; 1st October, 2015; 1st November 2015; and 1st December, 2015. Admittedly, the application under Section 7 was filed in June-July, 2018 and, thereby, we find that the application under Section 7 is not barred by limitation, nor the claim is barred by limitation. It was next contended that the 'Corporate Debtor' has paid the total dues by cash, but such submission cannot be accepted, which is also contrary to the stand initially taken that the Appellant will settle and pay the amount.

5. In the absence of any merit, we dismiss the Appeal. No cost.

[Justice S. J. Mukhopadhaya]
Chairperson

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

[Kanthi Narahari]
Member (Technical)